

EXHIBIT A

Contact

www.linkedin.com/in/carolyn-blankenship (LinkedIn)

Top Skills

Intellectual Property

Licensing

Mergers & Acquisitions

Carolyn Blankenship

General Counsel, Intellectual Property, Innovation and Product,
Thomson Reuters
New York

Summary

A strategic, insightful and creative leader with a proven record of achieving business objectives in an emerging technology environment, including SaaS, artificial intelligence/machine learning and blockchain/fintech; a trusted adviser with the experience and judgment to assess risk in a practical manner while keeping the bigger picture in mind.

Experience

Thomson Reuters

12 years 11 months

General Counsel, Innovation & Product

October 2018 - Present (2 years 11 months)

New York, United States

Deliver strategic advice on multi-faceted innovation, litigation, and product development issues, including artificial intelligence/machine learning, data ethics, fintech, digital accessibility and intellectual property. Provide legal advice to C-Suite and business groups relating to a host of SaaS content-forward technology products. Articulate the intellectual property, artificial intelligence, and open-source strategy for the company. Monitor legislative/regulatory developments, while participating in public policy initiatives aimed at addressing developments that impact the organization.

Senior Vice President, Associate General Counsel, Intellectual Property

October 2008 - October 2018 (10 years 1 month)

Princeton University

Visiting Lecturer

January 2018 - Present (3 years 8 months)

Princeton, New Jersey

Reuters

Vice President, Principal Legal Counsel, Intellectual Property

April 2001 - October 2008 (7 years 7 months)
New York, United States

Priceline

Vice President, Intellectual Property Counsel
April 2000 - April 2001 (1 year 1 month)
Norwalk, Connecticut, United States

Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates
Senior Associate
March 1999 - April 2000 (1 year 2 months)
New York, New York, United States

Education

Harvard University
b.a., Biology

MIT Sloan School of Management
Certification, Artificial Intelligence: Implications for Business Strategy

Massachusetts Institute of Technology

Sandra Day O'Connor College of Law at Arizona State University
j.d., Law

EXHIBIT B

Ghaffari, Kayvan

From: McKeown, Megan L. <megan.mckeown@kirkland.com>
Sent: Thursday, August 19, 2021 1:08 PM
To: Ghaffari, Kayvan
Cc: Simmons, Joshua L.; ROSS Lit Team; Parker, Warrington; *sobyne@potteranderson.com; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com; mflynn@mnat.com; Cendali, Dale M.; #Thomson-Ross
Subject: RE: TR v. ROSS -- Designated House Counsel

External Email

Kayvan,

We can discuss this issue further on the meet and confer. I assume you meant that your team is available on Tuesday from 11 am to 12 pm PT, not 12 am PT. Assuming that is correct, our team is available at that time too.

Below is a dial-in for the call on Tuesday, August 24 at 11:00 am PT:

Dial in: 1-866-331-1856
Conference code: 23219640#

Thanks,

Megan

Megan L. McKeown

KIRKLAND & ELLIS LLP
609 Main St, Houston, TX 77002
T +1 713 836 3499
F +1 713 836 3601

megan.mckeown@kirkland.com

From: Ghaffari, Kayvan <KGhaffari@crowell.com>
Sent: Wednesday, August 18, 2021 11:52 PM
To: McKeown, Megan L. <megan.mckeown@kirkland.com>
Cc: Simmons, Joshua L. <joshua.simmons@kirkland.com>; ROSS Lit Team <Rosslitteam@crowell.com>; Parker, Warrington <WParker@crowell.com>; *sobyne@potteranderson.com <sobyne@potteranderson.com>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com <JBlumenfeld@MNAT.com>; mflynn@mnat.com; Cendali, Dale M. <dale.cendali@kirkland.com>; #Thomson-Ross <thomson-ross@kirkland.com>
Subject: Re: TR v. ROSS -- Designated House Counsel

Megan,

Plaintiffs have not explained why it is necessary for Ms. Blankenship, the General Counsel of a self-proclaimed “competitor” of ROSS, to see ROSS’s highly confidential information. To date, your only explanation is she is keenly interested in this case and needs to advise the client on litigation matters. But Thomson Reuters has a large legal team capable of serving that role and there is nothing unique about Ms. Blankenship to support Plaintiffs’ demand. For example, Ms. Blankenship does not appear to have any unique copyright or antitrust experience. Rather, Ms. Blankenship provides advice to the business on various issues, including on artificial

intelligence technology and potential acquisitions.

While you repeatedly state Ms. Blankenship provides “legal advice” to competitive business decision-makers, that is still advice and Ms. Blankenship is still involved in the competitive decision-making process. See e.g., *PhishMe, Inc. v. Wombat Sec. Techs., Inc.*, 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting *U.S. Steel Corp. v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984)) (stating that under Delaware case law, competitive decision-making is defined as “counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor”). Moreover, your representations appear at odds with Ms. Blankenship’s public statements about her role at Thomson Reuters. As one example, her LinkedIn page describes her role “deliver[ing] strategic advice” on artificial intelligence/machine learning and “articulat[ing] the intellectual property, artificial intelligence, and open-source strategy for the company.” Her strategic role is not surprising given that Ms. Blankenship holds a certificate from the Massachusetts Institute of Technology, Sloan School of Management, regarding the implications of artificial intelligence for business strategy. Given the conflicting information, ROSS is unable to validate your representations regarding Ms. Blankenship’s roles and responsibilities as General Counsel.

As to her review of ROSS’s confidential information produced in *West Publishing Co. v. LegalEase Solutions, LLC* litigation, ROSS remains concerned.

ROSS is available to confer next Tuesday between 11-12 am PT or Wednesday from 12:30-2:30 pm PT.

ROSS reserves all rights.

Best,
KG

On Aug 18, 2021, at 10:26, McKeown, Megan L. <megan.mckeown@kirkland.com> wrote:

External Email

Hi Kayvan,

You have not responded to my email below requesting a final meet and confer regarding Ms. Blankenship’s designation so that we can raise the issue with the Court. Please let us know today some times that your team is available.

Thanks,

Megan

Megan L. McKeown

KIRKLAND & ELLIS LLP
609 Main St, Houston, TX 77002
T +1 713 836 3499
F +1 713 836 3601

megan.mckeown@kirkland.com<<mailto:megan.mckeown@kirkland.com>>

From: McKeown, Megan L. <megan.mckeown@kirkland.com>

Sent: Thursday, August 12, 2021 2:05 PM

To: Ghaffari, Kayvan <KGhaffari@crowell.com>; Simmons, Joshua L. <joshua.simmons@kirkland.com>

Cc: ROSS Lit Team <RossLitteam@crowell.com>; Parker, Warrington <WParker@crowell.com>;

sobyne@potteranderson.com <sobyne@potteranderson.com>; 'dmoore@potteranderson.com';

JBlumenfeld@MNAT.com <JBlumenfeld@MNAT.com>; mflynn@mnat.com; Cendali, Dale M.

<dale.cendali@kirkland.com>; #Thomson-Ross <thomson-ross@kirkland.com>

Subject: RE: TR v. ROSS -- Designated House Counsel

Dear Kayvan,

Your communications regarding both our conversation and the LegalEase litigation are inaccurate. I hope that they are good faith misunderstandings, but your mischaracterization of our telephone discussion last week gives the impression that ROSS is attempting to gain a litigation advantage by misrepresenting the facts. To be clear, I never stated that Ms. Blankenship “plays a strategic role on artificial intelligence and machine learning technology at Thomson Reuters” or that she “advises executives on competitive business decisions.” As we have repeatedly said, her role is to provide legal advice related to artificial intelligence/machine learning, etc. She simply does not provide advice on competitive or business decisions.

As to her review of ROSS’s documents produced in the West Publishing Co. v. LegalEase Solutions, LLC litigation, I can confirm that she did review those documents. Yet, despite your claim that “Ms. Blankenship was not permitted to review ROSS’s confidential information pursuant to the protective order entered into in that matter,” there was nothing improper or surprising about that. As you note, Paragraph 4(e) of the protective order in the LegalEase litigation states that “in-house counsel responsible for the Litigation on behalf of a party to the Litigation” can review “Confidential” information, as well as “Highly Confidential” information. See Dkt. 28 at ¶¶ 4-5. It does not say in-house counsel must be “an employee of a party” to the Litigation. This language was intentional, and, in fact, was specifically discussed and negotiated with LegalEase’s counsel with the understanding that Ms. Blankenship would have access to designated documents pursuant to that language. Thomson Reuters and West Publishing share in-house counsel, which makes sense because West does not have a separate in-house legal department. For that reason, Ms. Blankenship was the in-house counsel responsible for the LegalEase litigation on behalf of West Publishing and was entitled to see confidential material pursuant to the protective order. That relationship couldn’t have been surprising to ROSS given that, among other things, Mr. Giuliano (who also works for Thomson Reuters) attended the 30(b)(6) deposition of ROSS without objection and despite ROSS designating portions of the transcript of the deposition as Highly Confidential under the protective order. ROSS also never asked West’s counsel in the LegalEase litigation to identify the in-house counsel who would have access to ROSS’s documents pursuant to the protective order before producing its documents (even though ROSS’s counsel had inquired about other aspects of the protective order).

We trust that this email clarifies the LegalEase litigation issue for you. It also appears that we are at an impasse with regard to Ms. Blankenship being given access to documents marked highly confidential in this litigation. Please let us know when your team (including Delaware counsel) is available to meet and confer on this issue so that we can raise it with the Court.

Finally, during our call, you confirmed that (i) ROSS does not object to Ms. Blankenship seeing merely confidential information at a minimum, and (ii) that ROSS would de-designate portions of its interrogatory responses by Thursday, August 5. We have not received ROSS’s de-designated interrogatory responses. Please send them.

Regards,

Megan

Megan L. McKeown

KIRKLAND & ELLIS LLP
609 Main St, Houston, TX 77002
T +1 713 836 3499
F +1 713 836 3601

megan.mckeown@kirkland.com<<mailto:megan.mckeown@kirkland.com>>

From: Ghaffari, Kayvan <KGhaffari@crowell.com<<mailto:KGhaffari@crowell.com>>>
Sent: Tuesday, August 10, 2021 5:38 PM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>;
McKeown, Megan L. <megan.mckeown@kirkland.com<<mailto:megan.mckeown@kirkland.com>>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington
<WParker@crowell.com<<mailto:WParker@crowell.com>>>;
<sobyrne@potteranderson.com<<mailto:sobyrne@potteranderson.com>>>; 'dmoore@potteranderson.com';
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<mflynn@mnat.com<<mailto:mflynn@mnat.com>>>; Cendali, Dale M.
<dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Megan,

I am following up on my email below regarding your representation that Ms. Blankenship reviewed ROSS's confidential materials produced in the separate matter where Thomson Reuters was not a party to the action. See West Publishing Co. v. LegalEase Solutions, LLC, Case No. 18-cv-01445 (DSD/ECW) (D. Minn.) ("LegalEase Matter"). Please us know in writing no later than Thursday, August 12, 2021 at 6:00 pm EST if you deny that Ms. Blankenship reviewed ROSS's confidential information produced in the LegalEase Matter. If we do not hear from you by then, we will understand your silence to be confirmation that Ms. Blankenship did review ROSS's confidential documents produced in the LegalEase Matter.

Thanks,
KG

From: Ghaffari, Kayvan
Sent: Thursday, August 5, 2021 11:41 AM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>;
McKeown, Megan L. <megan.mckeown@kirkland.com<<mailto:megan.mckeown@kirkland.com>>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington
<WParker@crowell.com<<mailto:WParker@crowell.com>>>;
<sobyrne@potteranderson.com<<mailto:sobyrne@potteranderson.com>>>; 'dmoore@potteranderson.com';
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<mflynn@mnat.com<<mailto:mflynn@mnat.com>>>; Cendali, Dale M.
<dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Megan,

I write to follow-up from our call yesterday regarding Plaintiffs' designation of Carolyn Blankenship. You noted that, while Ms. Blankenship does not make certain business decisions, Ms. Blankenship nonetheless plays a strategic role on artificial intelligence and machine learning technology at Thomson Reuters and advises executives on competitive business decisions. Your representations confirm that Ms. Blankenship is precisely the type of in-house counsel who advises and/or participates in the client's decision-making process. See e.g., *PhishMe, Inc. v. Wombat Sec. Techs., Inc.*, 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting *U.S. Steel Corp. v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984) (stating that under Delaware case law, competitive decision-making is defined as "counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor"). Simply because Ms. Blankenship oversees this litigation and seeks to review ROSS's confidential document does not alter that outcome.

In addition, ROSS is troubled by your representation that Ms. Blankenship has already reviewed ROSS's confidential information produced in the separate matter *West Publishing Co. v. LegalEase Solutions, LLC*, Case No. 18-cv-01445 (DSD/ECW) (D. Minn.). Ms. Blankenship was not permitted to review ROSS's confidential information pursuant to the protective order entered into in that matter. See Dkt. 28. Paragraphs 4 and 5 of the protective order in that matter identifies certain individuals who may review documents designated "Confidential" and "Highly Confidential." *Id.* at ¶¶ 4-5. Paragraph 4(e) states "in-house counsel responsible for the Litigation on behalf of a party to the Litigation" can review "Confidential" information. *Id.* at ¶ 4; see also *id.* at ¶ 5 (stating "Highly Confidential" can be disclosed to persons designated under Paragraph 4(e)). Ms. Blankenship is General Counsel for Thomson Reuters, not West Publishing Co. West Publishing Co. was a "party to the [LegalEase] Litigation," not Thomson Reuters. Thus, Ms. Blankenship, as counsel for Thomson Reuters, not West Publishing, violated the protective order by reviewing ROSS's confidential information. ROSS is concerned that Ms. Blankenship may have misused that information for Thomson Reuters' competitive advantage, including as one example, using that information as a basis to bring a separate action against ROSS. See, e.g., *Static Media LLC v. Leader Accessories LLC*, No. 18-CV-330-WMC, 2019 WL 7281931, at *3 (W.D. Wis. Dec. 27, 2019) ("a protective order is not a 'paper tiger' and will be enforced in accordance with Fed. R. Civ. P. 37(b)(2), which allows for the imposition of sanctions for a party's failure to obey a discovery order"; finding party in contempt for using confidential information in another lawsuit; rejecting argument that there was no harm because confidential information would inevitably been subject to discovery in the other matter); see also *Errant Gene Therapeutics, LLC v. Sloan-kettering Inst. for Cancer Research*, No. 15CV2044AJNRLE, 2017 WL 2418742, at *2-3 (S.D.N.Y. June 5, 2017) (imposing sanctions).

Given Ms. Blankenship's conduct with confidential materials ROSS produced in the LegalEase matter, ROSS stands by its objection to Thomson Reuters' pending designation of Ms. Blankenship as designated in-house counsel.

ROSS reserves all rights.

Best,
KG

From: Ghaffari, Kayvan

Sent: Thursday, July 22, 2021 4:31 PM

To: 'Simmons, Joshua L.' <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>

Cc: ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington <WParker@crowell.com<<mailto:WParker@crowell.com>>>

*sobyne@potteranderson.com<mailto:*sobyne@potteranderson.com>
<sobyne@potteranderson.com<<mailto:sobyne@potteranderson.com>>>; 'dmoore@potteranderson.com';
*JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com>
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
mflynn@mnat.com<<mailto:mflynn@mnat.com>>; Cendali, Dale M.
<dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Dear Josh,

Pursuant to Paragraph 7.5(b) of the Protective Order, ROSS objects to the designation of Ms. Blankenship. Your email confirms that Ms. Blankenship is associated with and advises Thomson Reuters on business decisions relating to artificial intelligence and machine learning technology, including potential mergers and acquisitions. Thomson Reuters has sued a “competitor” over its artificial intelligence and machine learning technology. In addition, Ms. Blankenship has stated publicly, through lectures and publications, that she plays an active role in the directing the business’s IP licensing strategy. These sorts of responsibilities place her directly within the decision-making process.

Thomson Reuters’s belief that Ms. Blankenship may not “make” business decisions is based on a misreading of the Protective Order. Paragraph 7.5(b) states that a party designating an in-house counsel must “describe[] the Designated House Counsel’s current and reasonably foreseeable future primary job duties and responsibilities in sufficient detail to determine if the Designated House Counsel is involved, or may become involved, in any competitive business decision-making.” (emphasis added.) It does not state or contemplate that any objection to a designation is limited to those who actually make a competitive business-decision. This approach is consistent with this District’s interpretation of competitive decision-making as including in-house counsel who advise and/or participate in the client’s decision-making process, including by playing an active role in IP licensing. See e.g., *PhishMe, Inc. v. Wombat Sec. Techs., Inc.*, 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting *U.S. Steel Corp. v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984) (stating that under Delaware case law, competitive decision-making is defined as “counsel’s activities, association, and relationship with a client that are such as to involve counsel’s advice and participation in any or all of the client’s decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor”).

During discovery, ROSS will produce highly confidential documents concerning its artificial intelligence and machine learning technology. Given Ms. Blankenship’s role in the development of the business’s strategy on those technologies, including licensing, risk mitigation, and acquisitions, there is a significant risk that disclosing ROSS’s highly confidential information could harm ROSS. As one example of the potential harm, you state that Ms. Blankenship advises the business on risk mitigation based on current law. This would necessarily involve advising the business on its own artificial intelligence and machine learning technology. If Ms. Blankenship obtains information concerning ROSS’s technology, Ms. Blankenship may inadvertently disclose that information to the business in connection with her risk mitigation counseling. The potential harm to ROSS of that disclosure cannot be understated.

In addition, Thomson Reuters has not provided any information concerning Ms. Blankenship’s reasonably foreseeable future primary job duties. Thus, ROSS is unable to determine whether Ms. Blankenship may become involved in further competitive business decision-making.

Finally, Thomson Reuters has separately designated Jeanpierre Giuliano to review ROSS’s highly confidential information. Mr. Giuliano appears primarily responsible for managing Thomson Reuters’s IP litigation, including this litigation. Because Mr. Giuliano can review ROSS’s highly confidential information for purposes of this litigation, there does not appear to be any need to disclose that information to Ms. Blankenship,

especially considering the potential risk of harm to ROSS.

Please let us know if Thomson Reuters is willing to rescind its designation of Ms. Blankenship.

Thanks,
KG

From: Simmons, Joshua L. <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>
Sent: Thursday, July 15, 2021 7:03 PM
To: Ghaffari, Kayvan <KGhaffari@crowell.com<<mailto:KGhaffari@crowell.com>>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington <WParker@crowell.com<<mailto:WParker@crowell.com>>>;
<sobyrne@potteranderson.com<<mailto:sobyrne@potteranderson.com>>
<sobyrne@potteranderson.com<<mailto:sobyrne@potteranderson.com>>>; 'dmoore@potteranderson.com';
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<mflynn@mnat.com<<mailto:mflynn@mnat.com>>; Cendali, Dale M.
<dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: RE: TR v. ROSS -- Designated House Counsel

External Email
Dear Kayvan,

Ms. Blankenship does not make competitive business decisions. Rather, as one would expect, she is a legal advisor. Thus, for example, the strategic advice on artificial intelligence/machine learning and support for the business's M&A activities that you reference is limited to legal advice, including advice on the state of the law, regulatory compliance, and risk mitigation based on current law. Although she interacts with those who make competitive, business decisions, her role at Thomson Reuters does not involve making decisions where ROSS's highly confidential information would be involved. Accordingly, granting her access to highly confidential information is appropriate. Please let us know whether ROSS is objecting pursuant to Paragraph 7.5(b) and the reasons for the objection, so that we can raise the issue with the Court if necessary.

Best regards,

Josh

Joshua L. Simmons

KIRKLAND & ELLIS LLP
601 Lexington Avenue, New York, NY 10022
T +1 212 446 4989
F +1 212 446 4900

He/Him/His

joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>
<http://www.kirkland.com/jsimmons><https://urldefense.proofpoint.com/v2/url?u=http-3A__www.kirkland.com_jsimmons&d=DwMF_g&c=Anw7wKLFSgyH7zEzIqo-zgMRy5HE-AH-SibmOy3H7xE&r=ptTNYxuGmVcgppsHOuxSXHmoyS9ae8hJZR395dlkgdE&m=5AagDuEs0AJmQk0x0VYddT_2Owj1OMw5m8s7VYy9TOo&s=GtoYXmL7rhzQI6zFBxmXP4yEwmELO6gidwggF3R70Pc&e=>>

From: Ghaffari, Kayvan <KGhaffari@crowell.com<<mailto:KGhaffari@crowell.com>>>
Sent: Tuesday, July 13, 2021 6:45 PM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>; ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington <WParker@crowell.com<<mailto:WParker@crowell.com>>>;
<sobyryne@potteranderson.com<<mailto:sobyryne@potteranderson.com>>>; 'dmoore@potteranderson.com' <sobyryne@potteranderson.com<<mailto:sobyryne@potteranderson.com>>>; 'dmoore@potteranderson.com'
Cc: <JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
mflynn@mnat.com<<mailto:mflynn@mnat.com>>>; Cendali, Dale M. <dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Josh,

ROSS is concerned with Plaintiffs' designation of Carolyn Blankenship due to her role as General Counsel for Innovation and Technology at Thomson Reuters. Based on public statements, Carolyn appears to be involved in competitive business decision-making, especially as it relates to artificial intelligence and machine learning technology. Specifically, Carolyn has publicly stated that she provides strategic advice to the company on artificial intelligence/machine learning and is responsible in part for developing Thomson Reuters's strategy on artificial intelligence and other forms of technology, including supporting the business's M&A activities.

This is a competitor case about artificial intelligence and machine learning technology. Carolyn's review of highly confidential information as a competitive business decision-maker therefore would prejudice ROSS. However, in order to properly assess Plaintiffs' designation, ROSS requests additional information about her job duties and responsibilities in further detail, including without limitation the extent of her business advice to the company on artificial intelligence and machine learning, to enable us to determine if she is involved in any competitive business decision-making. ROSS further requests that Carolyn not possess and/or review any highly confidential information pending the parties' conferrals on this issue.

ROSS reserves all rights.

Best,
KG

From: Simmons, Joshua L. <joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>>
Sent: Friday, July 9, 2021 9:36 AM
To: ROSS Lit Team <Rosslitteam@crowell.com<<mailto:Rosslitteam@crowell.com>>>; Parker, Warrington <WParker@crowell.com<<mailto:WParker@crowell.com>>>;
<sobyryne@potteranderson.com<<mailto:sobyryne@potteranderson.com>>>; 'dmoore@potteranderson.com' <sobyryne@potteranderson.com<<mailto:sobyryne@potteranderson.com>>>; 'dmoore@potteranderson.com'
Cc: <JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
<JBlumenfeld@MNAT.com<<mailto:JBlumenfeld@MNAT.com>>>;
mflynn@mnat.com<<mailto:mflynn@mnat.com>>>; Cendali, Dale M. <dale.cendali@kirkland.com<<mailto:dale.cendali@kirkland.com>>>; #Thomson-Ross <thomson-ross@kirkland.com<<mailto:thomson-ross@kirkland.com>>>
Subject: TR v. ROSS -- Designated House Counsel

External Email

Counsel,

Pursuant to Paragraph 7.5(a)(1) of the Protective Order, Plaintiffs designate the following in-house counsel to receive access to ROSS's information designated as Highly Confidential under the Protective Order:

1) Name: Carolyn Blankenship

Residence: New York, New York

Job Duties: General Counsel, Innovation and Product - Oversees intellectual property litigation and provides intellectual property counseling advice related to Thomson Reuters' technology products.

2) Name: Jeanpierre Giuliano

Residence: New York, New York

Job Duties: Associate General Counsel (Innovation and Product) - Day-to-day management of intellectual property litigation, counseling, and licensing related to Thomson Reuters' technology products.

Best regards,

Josh

Joshua L. Simmons

KIRKLAND & ELLIS LLP
601 Lexington Avenue, New York, NY 10022
T +1 212 446 4989
F +1 212 446 4900

He/Him/His

joshua.simmons@kirkland.com<<mailto:joshua.simmons@kirkland.com>>
<http://www.kirkland.com/jsimmons><https://urldefense.proofpoint.com/v2/url?u=http-3A__www.kirkland.com_jsimmons&d=DwMFAG&c=Anw7wKLFSGyH7zEzIqo-zgMRy5HE-AH-SibmOy3H7xE&r=6wLuA0sfNx8ADJ7WxouvscZjHrgtrBDDJnQ5BPTam8&m=UOlq5RLnQ-7uNaVLi-CI7JiBfszs2ASQ42p3oEije4Y&s=eHjZMVkjbrY3Su-TwCUSFWX1ZaC40vFWu2eM-1ZUESU&e=>>

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMSON REUTERS ENTERPRISE)	
CENTRE GMBH and WEST PUBLISHING)	
CORPORATION,)	
)	
Plaintiffs,)	
)	C.A. No. 20-613 (LPS)
v.)	
)	
ROSS INTELLIGENCE INC.,)	
)	
Defendant.)	

**PLAINTIFFS THOMSON REUTERS ENTERPRISE CENTRE GMBH AND
WEST PUBLISHING CORPORATION'S FIRST SET OF
REQUESTS FOR PRODUCTION TO DEFENDANT ROSS INTELLIGENCE INC.**

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the United States District Court for the District of Delaware (the "Local Rules" and each a "Local Rule"), Plaintiffs Thomson Reuters Enterprise Centre GmbH ("Thomson Reuters") and West Publishing Corporation ("West") (collectively "Plaintiffs"), hereby request that Defendant ROSS Intelligence Inc. ("ROSS" or "You") produce for examination, inspection, and copying by Plaintiffs, their attorneys or others acting on Plaintiffs' behalf, the documents and things set forth below at the offices of Plaintiffs' attorneys, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, no later than thirty (30) days after service of these document requests ("Requests" and each a "Request").

DEFINITIONS

Unless otherwise defined, all words and phrases used herein shall be accorded their usual meaning and shall be interpreted in their common, ordinary sense. As used in these Requests, the words set forth below shall be defined as follows:

1. The term "ANSWER" means and refers to the answer filed by ROSS in this LITIGATION on December 13, 2020.

2. The term “AMENDED ANSWER” means and refers to the amended answer filed by ROSS in this LITIGATION on January 25, 2021.

3. The term “AMENDED COUNTERCLAIMS” means and refers to the counterclaims filed by ROSS in this LITIGATION on January 25, 2021.

4. The terms “COMMUNICATED” and “COMMUNICATION(S)” should be interpreted in their broadest sense to include without limitation all oral or written communications, including any writings, emails, or other electronically stored information as that term is defined by Federal Rule of Civil Procedure 34(a).

5. The term “COMPLAINT” means and refers to the Complaint filed by PLAINTIFFS in this LITIGATION on May 6, 2020.

6. The terms “CONCERNING” and “REFERRING OR RELATING TO” should be construed in the broadest possible sense to mean analyzing, citing, commenting upon, comprising, concerning, consisting of, constituting, containing, dealing with, describing, discussing, embodying, evidencing, identifying, involved with, mentioning, monitoring, referring to, reflecting, responding to, pertaining to, showing, stating, summarizing, or bearing any logical or factual connection with the matter discussed, as these terms are understood in the broadest sense.

7. The term “CONTRACTOR(S)” means and refers to any third parties that ROSS was, is, or considered working with to provide ROSS with TRAINING DATA, work product, or services in connection with the ROSS PLATFORM, including without limitation LEGALEASE.

8. The term “COUNTERCLAIMS” means and refers to the counterclaims filed by ROSS in this LITIGATION on December 13, 2020.

9. The term “DESCRIBE” means to state what is requested to be described, including all facts and opinions known or held by ROSS CONCERNING, relating to, or pertinent to what is requested to be described; and (i) the identity of each person or entity involved or having any knowledge of each fact or opinion that relates to what is so described; (ii) the identity of each document

evidencing the answer or response given or relating, referring or pertaining to said subject matter in any way; and (iii) all relevant or material dates and time periods, specifying the way in which said dates or time periods are pertinent to the subject matter described.

10. The term “DOCUMENT(S)” means any written, printed, typed, recorded, or graphic matter, however produced, reproduced, or stored, including the originals and all non-identical copies, whether different from the originals by reason of any notations made on such copies or otherwise, in the actual or constructive possession, custody, or control of ROSS, including without limitation contracts, letter agreements, records, correspondence, COMMUNICATIONS, electronically stored information, emails, tweets, blog or Internet forum posts or comments, text messages on portable devices, Blackberry Messenger messages, SMS messages, instant messenger messages (e.g. Skype, Slack, etc.), memoranda, handwritten notes, source code, source code comments, source repository logs, server logs, records or summaries of negotiations, records or summaries of interviews or conversations, audio or video recordings, copies of video games, all Internet-based media, photographs, corporate minutes, diaries, telephone logs, instant messaging logs, chat room logs, schedules, drawings, product storyboards, product mockups, statistical statements, work papers, disks, data cards, films, data processing files, charts, graphs, microfiche, microfilm, contracts, notices, reports, recitals, statements, worksheets, abstracts, resumes, summaries, jottings, market data, books, journals, ledgers, audits, maps, diagrams, research documents, newspapers, appointment books, desk calendars, project management charts (e.g., Gantt charts), task management records (e.g., to-do lists), expense reports, computer printout and other computer readable or electronic records, and all drafts or modifications thereof, and all non-identical copies of any such items. Any such DOCUMENT with any sheet or part thereof bearing any marks, such as initials, stamped indices, comments or notations, or any character or characters, that are not part of the signed text or photographic reproduction thereof is to be considered as a separate DOCUMENT. Where there is any question

about whether a tangible item otherwise described in these requests falls within the definition of “DOCUMENT(S),” such tangible item shall be produced.

11. The term “LEGALEASE” means and refers to LegalEase Solutions, LLC, and any of its former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf, including without limitation Teri Whitehead.

12. The term “LEGALEASE LITIGATION” means and refers to the lawsuit filed by PLAINTIFFS against LEGALEASE in the United States District Court for the District of Minnesota with case number 18-CV-01445.

13. The term “LEGALEASE COMPLAINT” means and refers to the Complaint filed by PLAINTIFFS in the LEGALEASE LITIGATION on May 25, 2018.

14. The term “LITIGATION” means and refers to the lawsuit filed by PLAINTIFFS against ROSS in the United States District Court for the District of Delaware with case number 20-cv-00613.

15. The term “MOTION TO DISMISS” means and refers to the motion to dismiss for failure to state a claim filed by ROSS in this LITIGATION on July 13, 2020.

16. The term “OPPOSITION” means and refers to the opposition filed by PLAINTIFFS in this LITIGATION on August 10, 2020.

17. The term “PARTIAL WITHDRAWAL” means and refers to the partial withdrawal of the motion to dismiss filed by ROSS in this LITIGATION on December 13, 2020.

18. The term “PERSON(S)” means any natural person, firm, corporation, partnership, group, association, governmental entity, or business entity.

19. The term “PLAINTIFFS” means and refers to THOMSON REUTERS and WEST.

20. The term “REPLY” means and refers to the reply filed by ROSS in this LITIGATION on August 20, 2020.

21. The terms “ROSS,” “YOU,” and “YOUR” mean and refer to Defendant ROSS Intelligence Inc., and any of its former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf, including without limitation ROSS Intelligence, Inc., the Canadian entity, Andrew Arruda, and Jimoh Ovbiagele.

22. The term “ROSS MEMOS” means and refers to any work product created or distributed by a CONTRACTOR for or to ROSS, including without limitation any “Memos” or “Legal Research Questions” as defined by Sections 1.2 and 1.3 of the “STATEMENT OF WORK II FOR ROSS BULK MEMOS” that was published by ROSS on May 7, 2020, on the website available at <https://medium.com/@AndrewArruda/hold-59effcd819b0>, attached hereto as **Exhibit A**.

23. The term “ROSS PLATFORM” means and refers to any and all services and products offered by ROSS, including without limitation the online legal research platform referred to as “ROSS” previously offered through the website available at <https://www.rossintelligence.com/>.

24. The term “SECOND AMENDED ANSWER” means and refers to the second amended answer filed by ROSS in this LITIGATION on April 12, 2021.

25. The term “STATE” means to state all relevant facts discoverable under FRCP 26(b) relating to a particular matter that is known to YOU.

26. The term “TECHNICAL FUNCTIONING” means and refers to the technological and business processes that maintained, powered, or otherwise enabled the ROSS PLATFORM,

including without limitation all underlying software, databases, servers, and other technology, and all supporting human-completed tasks, such as, but not limited to, data entry, file maintenance, or customer support activities.

27. The term “TRAINING DATA” means and refers to any material, data or sets of data used by ROSS to train any artificial intelligence algorithms or systems, including without limitation any ROSS MEMOS and WESTLAW CONTENT.

28. The term “WEST” means and refers to Plaintiff West Publishing Corporation, and any of their former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf.

29. The term “WEST HEADNOTES” means and refers to the proprietary text created by WEST’s attorney-editors to DESCRIBE and summarize the key concepts, points of law, or facts of judicial opinions found on WESTLAW.

30. The term “WESTLAW” means and refers to PLAINTIFFS’ online legal research product named Westlaw.

31. The term “WESTLAW CONTENT” means and refers to any and all WESTLAW content owned by PLAINTIFFS, including without limitation the WKNS and WEST HEADNOTES, and expressly excluding any work prepared by a United States Government officer or employee as a part of that person’s official duties, including without limitations government edicts, legislative enactments, judicial decisions, or similar types of official legal materials.

32. The term “WKNS” means and refers to the taxonomy of cases, topics, legal issues, points of law, and WEST HEADNOTES created and maintained by WEST’s attorney-editors for WESTLAW.

33. The words “and” and “or” shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual construction will serve to bring within the scope of a Request any PERSONS, COMMUNICATIONS, or DOCUMENTS which otherwise would not be brought within its scope.

34. The words “any” and “all” are mutually interchangeable and are meant to encompass each other.

35. The singular includes the plural and vice versa.

36. The past tense shall be construed to include the present tense and vice versa.

GENERAL INSTRUCTIONS

1. These Requests are intended to cover all DOCUMENTS in YOUR possession, custody or control, whether located at YOUR offices, home, stored via server, or at any other place. If any DOCUMENT was, but is no longer, in YOUR possession or subject to YOUR control, or in existence, state whether it (i) is missing or lost; (ii) has been destroyed; (iii) has been transferred, voluntarily or involuntarily, to others (and if so, to whom); or (iv) has been disposed of in some other manner. If YOU have reason to believe a responsive DOCUMENT is in the possession of another PERSON, STATE (i) the basis for this belief; (ii) the PERSON believed to be in possession of the responsive DOCUMENT(s); (iii) where YOU believe the responsive DOCUMENT(s) may be located; and (iv) other information as is sufficient to identify the DOCUMENTS for a subpoena *duces tecum*.

2. If a DOCUMENT that is responsive to a Request has been lost or destroyed, it should be identified as follows: (i) preparer; (ii) addressor (if different); (iii) addressee; (iv) each recipient and each person to whom distributed or shown; (v) date prepared; (vi) date transmitted (if different); (vii) date received; (viii) description of contents and subject matter; (ix) date of destruction; (x) manner of destruction; (xi) name, title, and address of the person who directed that the DOCUMENT be destroyed and (if different) the person who destroyed the DOCUMENT; (xii)

the reason for the DOCUMENT's destruction; (xiii) the names of persons having knowledge of the destruction; and (xiv) a full description of the efforts made to locate the DOCUMENT.

3. The production should include every DOCUMENT known to YOU and every such DOCUMENT that can be located or discovered by reasonably diligent efforts by YOU.

4. If any of the requested DOCUMENTS cannot be disclosed or produced in full, produce the DOCUMENTS to the extent possible, and STATE YOUR reasons for YOUR inability to produce the remainder, stating whatever information, knowledge, or belief YOU have CONCERNING the unproduced portions.

5. If any of the DOCUMENTS requested below are claimed to be privileged or are otherwise withheld, YOU are requested to provide a privilege log which identifies: (i) the date of the DOCUMENT; (ii) the identity of all PERSONS who sent, authored, signed or otherwise prepared the DOCUMENT; (iii) the identity of all PERSONS designated as addressee or copyees; (iv) a description of the contents of the DOCUMENT that, without revealing information itself privileged or protected, is sufficient to understand the subject matter of the DOCUMENT and the basis of the claim or privilege or immunity; (v) the type or nature of the privilege asserted (e.g., attorney-client privilege, work product doctrine, etc.); and (vi) for redacted DOCUMENTS only, the Bates numbers corresponding to the first and last page of any DOCUMENT redacted. To the extent e-mail is included and described on the privilege log, any e-mail chain (i.e., a series of e-mails linked together by e-mail responses and forwarding) that is withheld or redacted on the grounds of privilege, immunity or any similar claim may be logged as a single entry and identified by the most recent (i.e., top-most) e-mail. YOU shall not be required to break up an e-mail chain and log each individual e-mail separately. If, however, e-mail contained within a given chain exists separately, then YOU shall log that material in accordance with this Paragraph. If an e-mail

chain contains one or more privileged e-mails requiring redaction, the e-mail chain may be logged as a single entry and identified by the most recent redacted e-mail.

6. All DOCUMENTS or other things responsive to a Request shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond to the Request to which they are responsive.

7. All electronically stored information responsive to a Request shall be produced in black-and-white, single-page TIFF (300 dpi, Group IV) or color JPEG format. The file names of the images should correspond to the appropriate Bates number and should be accompanied by an OPT file mapping each Bates number with the associated image file. All corresponding metadata shall be produced in a DAT file, separated with consistent Concordance delimiters. All corresponding document text (extracted text or optical character recognition) information should be provided as document level text files with file names corresponding to the beginning Bates number of the document, and text files should be in plain-text format (not Unicode or UTF). Productions should be compatible with Concordance version 8.26. All electronically stored audio or audiovisual files shall be produced in their native format as maintained and retained by YOU. In addition, PLAINTIFFS reserve the right to request particular electronically stored information in another format, including native file format.

8. All electronically stored information shall be produced with the following corresponding metadata fields: APPLICATION, AUTHOR, BEGBATES, ENDBATES, BEGBATES_ATT, ENDBATES_ATT, CUSTODIAN, FILE_NAME, FILE_PATH, FILE_SIZE, EXTENSION, TEXT_FILE, NATIVEFILE, DATE_CREATED, TIME_CREATED, DATELAST_MOD, TIMELAST_MOD, SUBJECT, FROM, TO, CC, BCC, DATE_SENT, TIME_SENT, DATE_RECD, TIME_RECD, CONFIDENTIALITY, and MD5HASH.

9. Any DOCUMENT responsive to a Request should be produced in and with a file folder and other DOCUMENT (e.g., envelope, file cabinet marker) in or with which the DOCUMENT was located when this Request was served.

10. All pages of any DOCUMENT(s) now stapled or fastened together should be produced stapled or fastened together. Where DOCUMENT(s) are produced electronically, attachments shall be produced with the parent DOCUMENT(s) together as a family.

11. If it is otherwise not possible to produce any DOCUMENT called for by any Request, or if any part of any Request is objected to, the reasons for the objection should be stated with specificity as to all grounds and, for the convenience of the Court and the parties, each Request should be quoted in full immediately preceding the objection.

12. These Requests shall be deemed continuing and require further and supplemental production by YOU as and whenever YOU acquire, make, or locate additional DOCUMENTS between the time of the initial production and the time of final judgment in this LITIGATION.

DOCUMENTS TO BE PRODUCED

REQUEST FOR PRODUCTION NO. 1:

ALL DOCUMENTS CONCERNING the conception of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 2:

ALL DOCUMENTS CONCERNING the creation and development of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 3:

ALL DOCUMENTS CONCERNING changes to the ROSS PLATFORM from conception of the ROSS PLATFORM to today.

REQUEST FOR PRODUCTION NO. 4:

All DOCUMENTS CONCERNING all previous, current, and future versions of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 5:

All copies of previous versions of the website currently available at <https://www.rossintelligence.com/>.

REQUEST FOR PRODUCTION NO. 6:

All copies of all posts to www.medium.com by user Andrew Arruda (@AndrewArruda).

REQUEST FOR PRODUCTION NO. 7:

All copies of all tweets posted to www.twitter.com by user Andrew Arruda (@AndrewArruda).

REQUEST FOR PRODUCTION NO. 8:

All copies of all tweets posted to www.twitter.com by user ROSSIntel (@ROSSIntel).

REQUEST FOR PRODUCTION NO. 9:

All DOCUMENTS CONCERNING the TECHNICAL FUNCTIONING of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 10:

DOCUMENTS sufficient to identify all PERSONS who subscribe, or who previously have subscribed, to the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 11:

DOCUMENTS sufficient to provide PLAINTIFFS' counsel with log-in credentials for the ROSS PLATFORM to access its subscriber interface.

REQUEST FOR PRODUCTION NO. 12:

All technical DOCUMENTS CONCERNING the TECHNICAL FUNCTIONING of the ROSS PLATFORM, including without limitation, technical specifications, TRAINING DATA, algorithm training sets, algorithm training documentation, and user and administrator manuals.

REQUEST FOR PRODUCTION NO. 13:

All DOCUMENTS produced by ROSS in the LEGALEASE LITIGATION.

REQUEST FOR PRODUCTION NO. 14:

All DOCUMENTS sent to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 15:

All DOCUMENTS sent to CONTRACTORS (including without limitation LEGALEASE) by ROSS, including without limitation all COMMUNICATIONS sent by ROSS to CONTRACTORS CONCERNING TRAINING DATA or ROSS MEMOS.

REQUEST FOR PRODUCTION NO. 16:

All DOCUMENTS CONCERNING CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 17:

All DOCUMENTS CONCERNING the decision to enter into a contract with each CONTRACTOR, including without limitation any subsequent decisions to continue or modify the contract, or enter into a subsequent contract(s) with each CONTRACTOR.

REQUEST FOR PRODUCTION NO. 18:

All DOCUMENTS CONCERNING the reason ROSS entered into a contract with LEGALEASE, including without limitation any subsequent decisions to continue or modify the contract, or enter into a subsequent contract(s) with LEGALEASE.

REQUEST FOR PRODUCTION NO. 19:

All DOCUMENTS CONCERNING the materials and services LEGALEASE was to create, perform, or deliver to ROSS, including without limitation the format and structure of those materials.

REQUEST FOR PRODUCTION NO. 20:

All DOCUMENTS CONCERNING the nature and purpose of the alleged legal research LEGALEASE was to create, perform, or deliver to ROSS.

REQUEST FOR PRODUCTION NO. 21:

All DOCUMENTS CONCERNING the material and services CONTRACTORS, including without limitation LEGALEASE, created, performed, or delivered to ROSS, including without limitation the format and structure of those materials.

REQUEST FOR PRODUCTION NO. 22:

All DOCUMENTS CONCERNING how CONTRACTORS, including without limitation LEGALEASE, used WESTLAW to fulfill their obligations to ROSS (whether requested or not), including without limitation WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 23:

All DOCUMENTS CONCERNING CONTRACTORS, including without limitation LEGALEASE, providing judicial opinions downloaded from WESTLAW to ROSS, including without limitation every decision that included WEST HEADNOTES.

REQUEST FOR PRODUCTION NO. 24:

All agreements, contracts, or licenses CONCERNING TRAINING DATA for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 25:

All DOCUMENTS CONCERNING ROSS's basis for using WESTLAW, directly or indirectly, to train any artificial intelligence algorithms, including without limitation the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 26:

All DOCUMENTS CONCERNING copyright protection of annotations to judicial opinions or other legal material, including without limitation WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 27:

DOCUMENTS sufficient to show where the judicial opinions available on the ROSS PLATFORM came from, including without limitation how and when ROSS acquired them.

REQUEST FOR PRODUCTION NO. 28:

DOCUMENTS sufficient to show search queries and results on the ROSS PLATFORM from conception to today.

REQUEST FOR PRODUCTION NO. 29:

All DOCUMENTS CONCERNING ROSS's actual or potential delivery of annotations of judicial opinions to customers, including without limitation ROSS's ability to hire attorney-editors to produce such annotations.

REQUEST FOR PRODUCTION NO. 30:

ALL DOCUMENTS CONCERNING TRAINING DATA, including without limitation instructions on how to produce and acquire it.

REQUEST FOR PRODUCTION NO. 31:

ALL DOCUMENTS CONCERNING the production of TRAINING DATA, including without limitation how long and how much it would cost for ROSS to produce or secure TRAINING DATA.

REQUEST FOR PRODUCTION NO. 32:

ALL DOCUMENTS CONCERNING why the ROSS PLATFORM initially only offered judicial opinions in the area of bankruptcy law, including without limitation why the ROSS PLATFORM was not able to offer the whole corpus of judicial opinions.

REQUEST FOR PRODUCTION NO. 33:

ALL DOCUMENTS CONCERNING comparison tests between the ROSS PLATFORM and any competitor, including without limitations the invitation from CaseText to compare ROSS to WESTLAW and why ROSS declined CaseText's invitation.

REQUEST FOR PRODUCTION NO. 34:

ALL DOCUMENTS CONCERNING PLAINTIFFS, including without limitation WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 35:

ALL DOCUMENTS CONCERNING ROSS's use of WESTLAW, whether directly or indirectly.

REQUEST FOR PRODUCTION NO. 36:

ALL DOCUMENTS CONCERNING ROSS's attempt to acquire a subscription to WESTLAW.

REQUEST FOR PRODUCTION NO. 37:

ALL DOCUMENTS CONCERNING WESTLAW, including without limitation WESTLAW's subscription agreement or terms of use.

REQUEST FOR PRODUCTION NO. 38:

ALL DOCUMENTS CONCERNING the manner in which content offered on the ROSS PLATFORM was saved, stored, or maintained for future use by ROSS or ROSS customers.

REQUEST FOR PRODUCTION NO. 39:

ALL DOCUMENTS CONCERNING the manner in which the material delivered by CONTRACTORS, including without limitation LEGALEASE, to ROSS was stored, maintained, and used by ROSS.

REQUEST FOR PRODUCTION NO. 40:

ALL DOCUMENTS CONCERNING the market for, or value of, the ROSS PLATFORM, including without limitation the features of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 41:

ALL DOCUMENTS CONCERNING the market for, or value of, WESTLAW, including without limitation the features of WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 42:

DOCUMENTS sufficient to identify the first date, and all subsequent dates, on which the ROSS PLATFORM made use of any material derived from WESTLAW, including without

limitation any material delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 43:

All DOCUMENTS CONCERNING the means by which and reason for ROSS obtaining WESTLAW CONTENT for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 44:

All DOCUMENTS CONCERNING how the ROSS PLATFORM answered user questions, including without limitation technical DOCUMENTS sufficient to show how and why judicial opinions were selected and ordered in response to user questions.

REQUEST FOR PRODUCTION NO. 45:

DOCUMENTS sufficient to show what ROSS made available to its customers, including without limitation any materials, products, product features, and legal research services.

REQUEST FOR PRODUCTION NO. 46:

All DOCUMENTS CONCERNING any taxonomies, hierarchies or other organizational methods created by ROSS for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 47:

All DOCUMENTS CONCERNING the purpose of any material, work product, or content delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 48:

All DOCUMENTS CONCERNING potential customers who decided not to enter into a contract with ROSS, or past customers who decided not to renew their contract with ROSS, including without limitation the reason for not entering into or renewing said contract.

REQUEST FOR PRODUCTION NO. 49:

All DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and PLAINTIFFS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO the services and material sent to ROSS by LEGALEASE, the LEGALEASE LITIGATION, or the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 50:

All DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and PLAINTIFFS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO WESTLAW, WESTLAW CONTENT, PLAINTIFFS, the LITIGATION, or the COMPLAINT.

REQUEST FOR PRODUCTION NO. 51:

All DOCUMENTS CONCERNING COMMUNICATIONS between CONTRACTORS (including without limitation LEGALEASE) and ROSS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO the services and material sent to ROSS by LEGALEASE, the LEGALEASE LITIGATION, or the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 52:

All DOCUMENTS CONCERNING COMMUNICATIONS between CONTRACTORS (including without limitation LEGALEASE) and ROSS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO WESTLAW, WESTLAW CONTENT, PLAINTIFFS, the LITIGATION, or the COMPLAINT.

REQUEST FOR PRODUCTION NO. 53:

ALL DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and any other PERSONS (including without limitation potential or actual customers) REFERRING OR RELATING TO WESTLAW, PLAINTIFFS, or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 54:

ALL DOCUMENTS CONCERNING this LITIGATION and sufficient to identify all PERSONS with whom ROSS has communicated about this LITIGATION, including without limitation COMMUNICATIONS about (i) the existence of this LITIGATION and (ii) the facts, allegations, defenses, and claims set forth in the COMPLAINT, ANSWER, AMENDED ANSWER, SECOND AMENDED ANSWER, MOTION TO DISMISS, OPPOSITION, REPLY, COUNTERCLAIMS, AMENDED COUNTERCLAIMS or PARTIAL WITHDRAWAL.

REQUEST FOR PRODUCTION NO. 55:

ALL DOCUMENTS CONCERNING the LEGALEASE LITIGATION, including without limitation COMMUNICATIONS about (i) the existence of the LEGALEASE LITIGATION and (ii) the facts, allegations, defenses, and claims set forth in the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 56:

ALL DOCUMENTS CONCERNING any expert reports in this LITIGATION pursuant to Federal Rule of Civil Procedure 26(a)(2).

REQUEST FOR PRODUCTION NO. 57:

DOCUMENTS sufficient to show the existence, nature, and extent of any insurance, indemnification, or similar agreement or arrangement to fund, contribute to, pay for, or provide reimbursement for any potential fees, costs, expenses, or liability incurred in connection with this

LITIGATION, including without limitation the insurance referred to in the blog post available at the website <https://blog.rossintelligence.com/post/announcement>.

REQUEST FOR PRODUCTION NO. 58:

DOCUMENTS sufficient to show ROSS's document retention policies, including the retention of emails or other electronic documents.

REQUEST FOR PRODUCTION NO. 59:

DOCUMENTS sufficient to show when, if at all, ROSS began preserving documents CONCERNING this LITIGATION, the LEGALEASE LITIGATION, WESTLAW, PLAINTIFFS, or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 60:

ALL DOCUMENTS CONCERNING news articles or press clippings REFERRING OR RELATING TO ROSS, the ROSS PLATFORM, PLAINTIFFS, or WESTLAW, including without limitation copies of all news articles or press clippings.

REQUEST FOR PRODUCTION NO. 61:

ALL DOCUMENTS given to actual or potential customers of the ROSS PLATFORM, including without limitation any and all agreements, licenses, contracts, or pitch materials.

REQUEST FOR PRODUCTION NO. 62:

ALL DOCUMENTS CONCERNING the marketing of the ROSS PLATFORM, including without limitation all efforts to advertise or promote the ROSS PLATFORM, and all marketing material REFERRING OR RELATING TO WESTLAW or the WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 63:

Copies of all of ROSS's advertisements, whether in print, audio, audiovisual, digital, or other format.

REQUEST FOR PRODUCTION NO. 64:

Copies of all of ROSS's, Andrew Arruda's, and Jimoh Ovbiagele's interviews, presentations, and lectures, REFERRING OR RELATING TO ROSS, the ROSS PLATFORM, PLAINTIFFS, or WESTLAW, including without limitation all notes, talking points, or other material used to prepare.

REQUEST FOR PRODUCTION NO. 65:

DOCUMENTS sufficient to show the date on which and medium through which each of ROSS's advertisements ran, or were printed, aired, broadcasted, or otherwise distributed.

REQUEST FOR PRODUCTION NO. 66:

All DOCUMENTS CONCERNING research done by or on behalf of ROSS to build the ROSS PLATFORM, including without limitation research CONCERNING the amount, nature, and availability of legal content (such as WESTLAW CONTENT), PLAINTIFFS or WESTLAW (such as competitive intelligence research).

REQUEST FOR PRODUCTION NO. 67:

All DOCUMENTS prepared for, sent to, or given to investors or prospective investors in ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 68:

All DOCUMENTS CONCERNING COMMUNICATIONS with investors or prospective investors in ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 69:

DOCUMENTS sufficient to show all actual or potential investments in ROSS or the ROSS PLATFORM, including without limitation venture capitalists who have (directly or indirectly) considered investing.

REQUEST FOR PRODUCTION NO. 70:

All DOCUMENTS CONCERNING financial or potential financial investment in ROSS or the ROSS PLATFORM, including without limitation all DOCUMENTS sufficient to identify all past and present investors (actual or potential) in ROSS or the ROSS PLATFORM and their investors.

REQUEST FOR PRODUCTION NO. 71:

All DOCUMENTS CONCERNING the acquisition or potential acquisition of ROSS.

REQUEST FOR PRODUCTION NO. 72:

All DOCUMENTS CONCERNING any valuation of ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 73:

All DOCUMENTS CONCERNING any efforts by ROSS to enforce its intellectual property rights.

REQUEST FOR PRODUCTION NO. 74:

All DOCUMENTS CONCERNING any enforcement activity by third parties REFERRING OR RELATING TO the ROSS PLATFORM, including without limitation actual, anticipated, threatened, potential, or considered litigation, arbitration, or other adversarial proceedings and all cease-and-desist DOCUMENTS.

REQUEST FOR PRODUCTION NO. 75:

All DOCUMENTS CONCERNING any objections, complaints, questions, concerns, or criticism of the ROSS PLATFORM, including, but not limited to, CONCERNING how the ROSS PLATFORM was created.

REQUEST FOR PRODUCTION NO. 76:

All DOCUMENTS created by PLAINTIFFS, including without limitation all DOCUMENTS downloaded from WESTLAW, or otherwise derived from or based on WESTLAW or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 77:

All DOCUMENTS CONCERNING licensing by ROSS to third parties of intellectual property, including without limitation licensing by ROSS to other parties of the ROSS PLATFORM; copies of all licensing agreements; and all COMMUNICATIONS with actual or potential licensees regarding the ROSS PLATFORM's content.

REQUEST FOR PRODUCTION NO. 78:

All DOCUMENTS CONCERNING the licensing or sale of TRAINING DATA to ROSS for use with the ROSS PLATFORM, including without limitation copies of all such licensing agreements.

REQUEST FOR PRODUCTION NO. 79:

All DOCUMENTS CONCERNING the decision to cease operation of the ROSS PLATFORM, including without limitation COMMUNICATIONS to and from ROSS's investors.

REQUEST FOR PRODUCTION NO. 80:

All DOCUMENTS CONCERNING transitioning ROSS's customers to Fastcase, vLex, and CaseText, including without limitation the reason for transitioning ROSS's customers to those companies.

REQUEST FOR PRODUCTION NO. 81:

DOCUMENTS sufficient to identify ROSS's competitors, including without limitation who they were and how many there were.

REQUEST FOR PRODUCTION NO. 82:

DOCUMENTS sufficient to identify ROSS's customers, including without limitation who they were, how many there were, and when they first entered into a contract with ROSS (including without limitation any trial periods to use the ROSS PLATFORM).

REQUEST FOR PRODUCTION NO. 83:

DOCUMENTS sufficient to identify ROSS's partners, including without limitation who they were and how many there were.

REQUEST FOR PRODUCTION NO. 84:

DOCUMENTS sufficient to show ROSS's yearly and monthly gross and net revenues, expenses, and profits, from conception to today.

REQUEST FOR PRODUCTION NO. 85:

All DOCUMENTS CONCERNING ROSS's past and present pricing plans for the ROSS PLATFORM, including but not limited to any one-time or per-use fees; daily, weekly, monthly, yearly, or other-term subscription fees; and all related downloadable software prices.

REQUEST FOR PRODUCTION NO. 86:

DOCUMENTS sufficient to show ROSS's yearly and monthly earnings attributable to the material and TRAINING DATA delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE, including without limitation revenues, expenses, and gross and net profits.

REQUEST FOR PRODUCTION NO. 87:

All DOCUMENTS CONCERNING ROSS's projected future earnings, including without limitation earnings attributable to the material and TRAINING DATA delivered to ROSS by

CONTRACTORS, including without limitation LEGALEASE, including without limitation revenues, expenses, and gross and net profits.

REQUEST FOR PRODUCTION NO. 88:

All DOCUMENTS CONCERNING investments in ROSS, including without limitation investments attributable to the material and TRAINING DATA delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 89:

All DOCUMENTS CONCERNING ROSS's past, present, or future business plans, including without limitation plans to monetize the content delivered to ROSS by LEGALEASE through the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 90:

ROSS's tax records.

REQUEST FOR PRODUCTION NO. 91:

DOCUMENTS sufficient to show ROSS's corporate formation and organizational structure, including without limitation its current or former principals, officers, directors, employees, business partners, investors, or owners.

REQUEST FOR PRODUCTION NO. 92:

DOCUMENTS sufficient to show the resumes of ROSS's current or former principals, officers, directors, employees, business partners, investors, and owners.

REQUEST FOR PRODUCTION NO. 93:

All DOCUMENTS relied upon, used, or referred to in response to PLAINTIFFS' discovery requests in this LITIGATION, including without limitation requests for admissions or interrogatories.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Dale M. Cendali

OF COUNSEL:

Dale M. Cendali
Joshua L. Simmons
Eric A. Loverro
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
(212) 446-4800

Daniel E. Laytin
Christa C. Cottrell
Cameron Ginder
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
(312) 862-2000

Megan McKeown
KIRKLAND & ELLIS LLP
609 Main Street
Houston, TX 77002
(713) 836-3600

May 3, 2021

Jack B. Blumenfeld (#1014)
Michael J. Flynn (#5333)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
mflynn@morrisnichols.com

*Attorneys for Plaintiffs Thomson Reuters
Enterprise Center GmbH and West Publishing
Corporation*

EXHIBIT A

STATEMENT OF WORK II FOR ROSS BULK MEMOS

This Statement of Work II incorporates and is made pursuant to the October 15, 2015 Master Services Agreement (“MSA”) by and between ROSS Intelligence, Inc. (“ROSS”), a Delaware corporation and LegalEase Solutions, LLC (“Contractor”) a Michigan limited liability company.

1. Definitions: Terms and expressions not expressly defined in this Statement of Work, shall have the following meanings:
 - 1.1. “Case Law” means judicial decisions originating from a judicial or administrative body in the United States of America, or as otherwise prescribed in writing by ROSS and sent to Contractor.
 - 1.2. “Legal Research Question” means a question grounded in legal principles.
 - 1.3. “Memorandum or Memo” means a memorandum of law that answers a Legal Research Question.
 - 1.4. “Quote” means an independent paragraph excerpt from Case Law.
 - 1.5. “Reference List” means the list of Case Law included in the Memo.
 - 1.6. “Deficiency” means a reference quote that does not directly answer the ROSS question.
2. Additional Terms and Expressions: Additional capitalized terms and expressions have the meanings ascribed to them in the MSA.
3. Currency: Unless stated otherwise, all dollar figures in this Statement of Work are in United States dollars.
4. Term: Subject to the termination provisions of this Agreement, the term of this Statement of Work shall be for a period of three months commencing on September 19, 2017 and expiring on December 19, 2017 (“Initial Term”). Upon the expiration of the Initial Term, this Statement of Work shall renew with the prior written mutual consent of ROSS for successive three month periods (“Renewal Terms”), unless terminated pursuant to the terms of the Agreement. The terms Initial and Renewal Terms shall be collectively referred to as the “Term”.
5. Description of Service:
 - 5.1. Contractor agrees to provide ROSS with bulk Memos. Contractor agrees to meet the expectations for performance as set forth in this Statement of Work. Contractor’s attorneys will research topics and Legal Research Questions from any Federal or State jurisdiction in the United States, without regard to any legal decisions, draft Memos, and compile the Memos in the format approved by ROSS.
 - 5.2. Each Memo shall include a Legal Research Question and a Reference list with a target of at least four (4) and no more than six (6) Quotes.
 - 5.3. Two (2) to four (4) Quotes in each Memo shall contain either a “great” or “good” independent answer to the Legal Research Question. A “great” Quote is one that contains an answer to all essential elements of the Legal Research Question while a “good” Quote is one that contains an answer to most essential elements of the Legal Research Question. The Contractor shall strive for four (4) “good” or “great” Quotes per question. However, if

Contractor is only able to find 2 or 3 “good” or “great” Quotes, they shall only provide 2 or 3 “good” or “great” Quotes. Contractor shall strive to have more “great” than “good” Quotes.

- 5.4. One (1) Quote in each Memo shall contain a “topical” independent response to the Legal Research Question. A “topical” response is a response that answers and/or references limited components of a Legal Research Question but does not answer the essential elements of such Legal Research Question.
- 5.5. One (1) Quote in each Memo shall contain an “irrelevant” independent response to the Legal Research Question. An “irrelevant” response is a response that contains one or more keywords from the Legal Research Question but does answer and/or reference any elements of the Legal Research Question, either limited or essential.
- 5.6. Contractor shall label whether a Quote contains a response that is “great”, “good”, “topical” or “irrelevant” and double bracket and bold the specific component(s) of each such Quote that is “great”, “good”, “topical” or “irrelevant.” Contractor shall also label which legal practice area each Quote falls under.
6. Changes: ROSS reserves the right to request changes, deletions, or additions as deemed necessary by ROSS and Contractor. ROSS’ proposed changes shall become effective only by written agreement of Contractor.
7. Production/Delivery Schedule: Contractor agrees to draft ROSS questions and Memos pursuant to the Production Run schedule below. In the First Production Run of Memos, Contractor shall commence providing deliverables on October 19, 2017 and conclude on December 19, 2017, as outlined below. For the Subsequent Production Runs of Memos, Contractor shall provide 20,000 Memos in subsequent months to ROSS.

First Production Run

Delivery Date	Amount of Memos
October 19, 2017	5,000
November 19, 2017	10,000
December 19, 2017	10,000

Subsequent Production Run

Delivery Date	Amount of Memos
Month 1	20,000
Month 2	20,000
Month 3	20,000
Month 4	15,000

8. Fee: ROSS shall pay Contractor pursuant to the schedule below:

Reference Quotes	Price per Memo
------------------	----------------

4 Quotes + 1 topical and 1 irrelevant Quote	\$26.17
3 Quotes + 1 topical and 1 irrelevant Quote	\$24.55
2 Quotes + 1 topical and 1 irrelevant Quote	\$21.00

Contractor shall provide a 5% volume discount to ROSS for any Memo purchase over 25,000 and a 15% volume discount for a total order of 100,000 Memos.

9. Payment: ROSS shall pay Contractor in advance at the beginning of each month for the following 30 days of expected output at a minimum \$21.00 price per Memo (each, an “Advance Payment”). For clarity, the Advance Payment for the (i) first 5,000 Memos of the First Production Run due October 19, 2017 shall be \$105,000 and shall be made on September 19, 2017; (ii) subsequent 10,000 Memos of the First Production Run due November 19, 2017 shall be \$210,000 and shall be made on October 19, 2017 and (iii) final 10,000 Memos of the First Production Run due December 19, 2017 shall be \$210,000 and shall be made on November 20, 2017. For any Subsequent Production Run, the Advance Payment shall be \$420,000. If there is a difference between an Advance Payment amount and aggregate Memo cost during a Production Run pursuant to the Section 8 Fee schedule (the “Cost Difference”), Contractor shall provide ROSS a detailed accounting of such Cost Difference in a timely manner and ROSS shall pay such Cost Difference within seven (7) days receipt of such detailed accounting.
10. Delivery: Contractor shall deliver batched Memos via e-mail or FTP to ross@rossintelligence.com and via the ROSS Memo upload portal (the “Portal”). The Portal shall meet necessary specifications of speed and capacity to process daily batched Memo uploads.
11. Quality Assurance: Contractor shall ensure the Memos submitted follow the (i) quality control processes detailed in the LegalEase Solutions Quality Control Guide (“QCG”) provided in Schedule A to this Statement of Work and the (ii) Quality Control Checklist provided in Schedule B to this Statement of Work. Contractor shall follow a staged quality control process. There will be 100% quality control for the first 2000 Memos, 75% for the next 10,000 Memos and 25% for the remaining Memos. If any of the Memos submitted do not meet the parameters prescribed in the QCG, ROSS shall inform Contractor of such Deficiencies within 14 days of receipt of the applicable Memos. If no such notice is received within the prescribed 14 days, the applicable Memos shall be deemed fully accepted by ROSS. A 15% penalty shall be charged to any Memo and/or batch of Memos that fail to meet the QCG requirements.
12. Reporting: Contractor shall email daily reports to ROSS which include the production totals, QCG results, and other requested information from ROSS.
13. Destruction of Memos: Contractor acknowledges that the Memos constitute Confidential Information and shall remove and destroy all Memos and copies of Memos in its

possession within sixty (60) days of each Production Run and shall concurrently confirm to ROSS that such removal and destruction has occurred.

14. Existing Agreements: This Statement of Work is ancillary to existing agreements, including, but not limited to the MSA and prior Statements of Work.

Date: September 15, 2017

ROSS INTELLIGENCE, INC.

By: 

Name: Andrew Arruda
Title: Chief Executive Officer

LEGALEASE LLC

By: 

Name: Tariq Hafeez
Title: President

Quality Control Guide for ROSS Intelligence

Drafting Questions, Preparing Responsive
Memorandum, and Quality Control
Procedures

LegalEase Solutions LLC



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Overview

Introduction

The LegalEase Solutions Quality Control Guide ("QCG") is the primary quality assurance resource and playbook for our attorneys. This QCG provides all the tools and resources needed for the drafting and delivery of ROSS Intelligence memos.

Audience

The intended audience for this guide is our attorneys who prepare Ross memos. Additionally, this guide may be utilized by ROSS to review our internal process.

Objectives

This guide:

- Identifies clear guidelines for attorneys to follow when designing, developing, and researching, drafting, and delivering ROSS memos.
- Describes quality control standards for ROSS memos.
- Describes quality control procedures and processes set in place for ROSS memo production.



Legal Disclaimer

This Quality Control Guide includes proprietary, confidential, and/or trade secret information. LegalEase considers this information to be a trade secret not subject to disclosure.



The LegalEase ROSS Team and Process

We have organized a comprehensive team for this project. Leading the team for ROSS operations are Teri Whitehead, VP of Global Strategy and Gayathri Rajeev, Director of Operations in India. Teri and Gayathri will oversee operations and are available anytime to address and resolve any potential concerns.

Attorneys. Our team of attorneys will research topics and questions, draft the memos, and compile the memos in the ROSS approved format. We will ensure that our attorneys follow this QCG for drafting memos and utilize our internal associate work product checklists. The steps include:

- i. Using our LegalEase's creative process, to produce ROSS questions.
- ii. Research answers to questions.
- iii. Draft ROSS memorandum.

Quality Control Attorneys. We have allocated a minimum of 5 separate QC attorneys to independently review memos, ensuring that ROSS standards are met. These attorneys have a minimum of 3 years' experience in these positions. The QC team will be expanded as needed per the scope and requirements of this project. The QC team will follow the QC checklist setting out the steps to be followed in completing the process. These steps include:

- i. Review and confirm the grammar, question format, and citations.
- ii. Confirm and review short answer and legal analysis.
- iii. Review reference quotes for relevancy.
- iv. Confirm case law.
- v. Advise associates of errors and design action plan to avoid future errors.

Staged Quality Control Process. Our QC attorneys will follow LegalEase's staged quality control process. We have used this process with success on other large accounts with over 50,000 documents.

First Stage:

100% QC of 2000 Memos. Our QC attorneys will QC 100% of the first 2000 memos.

Second Stage:

75% for the next 10,000 memos. Our QC attorneys will QC 75% of the next 10,000 memos.

Third Stage:

25% for the remaining memos. Our QC attorneys will QC 25% or more of the remaining memos.



Production Expeditors. Our dedicated ROSS production expeditors will comply and follow ROSS' process on delivery, including the portal upload, data tracking, and logistics. These steps include:

- i. Validate question originality.
- ii. Upload memorandum to ROSS dedicated portal.
- iii. Update internal LE production tracking sheet.
- iv. Email production totals of attorneys and QC attorneys to Project Managers.
- v. Update internal exception error tracking sheet.
- vi. Update ROSS' completion tracking sheet.

India and US Project Managers. We have assigned to ROSS, three project managers. Our project managers will guarantee and ensure ROSS quality and processes. Having project managers in different time zones will provide round the clock attention and access.

The role of the PM's include:

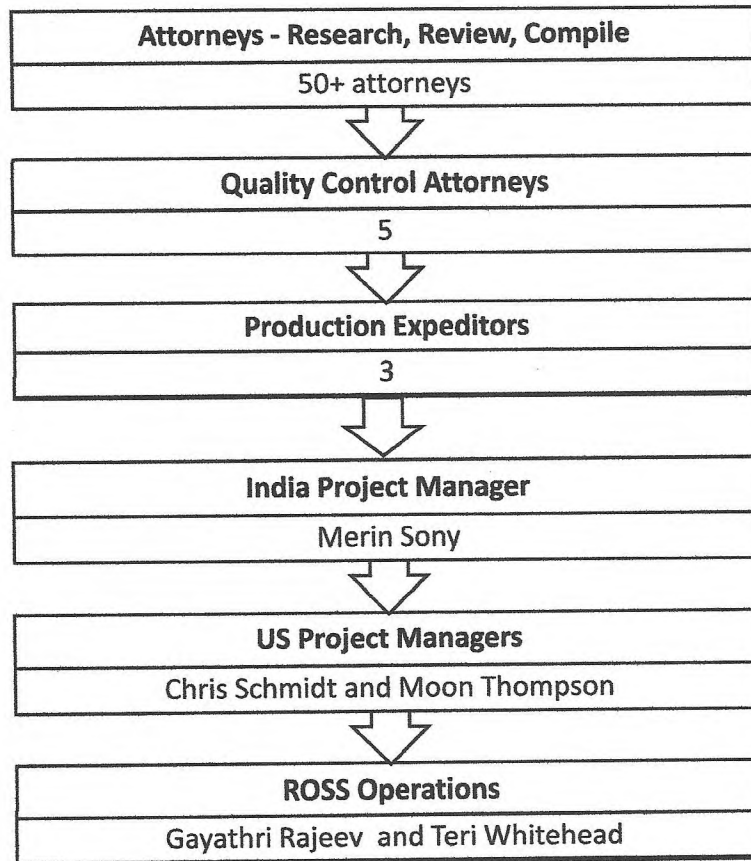
- i. Review production of attorneys, QC attorneys, production expeditors.
- ii. Daily review protocol and process for efficiencies following LE model theory of constraints.
- iii. Address any concerns.
- iv. Email daily reports to LegalEase Operations detailing production, legal topics addressed, upload process production, improved efficiencies, and QC results.

Ross Operations. Teri Whitehead and Gayathri Rajeev will oversee all aspects of this project. Teri and Gayathri's role includes the following:

- i. Address any concerns.
- ii. Email daily reports to the ROSS team providing production totals, QC results, and other requested information.
- iii. Host daily conference status calls with the ROSS Production team.



The LegalEase ROSS Process Flowchart



Document ID : ROSS Bulk QCC
Date of Issue : 07.08.2017
Periodic Review : 09.15.2017
Revision No :

Quality Control Checklist for ROSS Intelligence

LegalEase Solutions LLC

Document ID : ROSS Bulk QCC
Date of Issue : 07.08.2017
Periodic Review : 09.15.2017
Revision No :

QUALITY CONTROL CHECKLIST FOR ROSS BULK MEMOS

Attorney - ROSS Intelligence Checklist

Description	Completed
1. Draft ROSS questions following LegalEase Creative Process.	
2. Research questions using online resources and accounts.	
3. Label cases as great, good, topical, and irrelevant.	
4. Confirm that great, and good quotes answer the question directly.	
5. Add topical and irrelevant cases.	
6. Confirm that the topical and irrelevant cases meet the criteria.	
7. Confirm grammar correct throughout memo.	
8. Confirm the font and space of the memo.	
9. Follow file name convention.	

Review Attorney - ROSS Intelligence Checklist

Description	QC 1	QC 2
Question should not be state specific.		
Grammar check of question.		
Quotes to be labeled correctly. GREAT – must contain all essential elements of the question. GOOD – contains most of the essential elements of the question.		

Document ID : ROSS Bulk QCC
Date of Issue : 07.08.2017
Periodic Review : 09.15.2017
Revision No :

	TOPICAL – foundation quote, background information. IRRELEVANT– has no reference or relevance.		
	Should label as Great Case 1, Great Case 2, and not Great Quote.		
	Bracketed language must answer question. Bracketed language may be up to a paragraph. If necessary, you can double bracket separate sentences. Bracketed language must be a sentence. Not just two words.		
	Double Brackets, and Content in Bold.		
	No red squiggly line.		
	Confirm reference quote. Ensure Topical quote and Irrelevant quotes are added.		
	Smartsheet updates.		
	Double check the Form - Double Brackets for Quotes. No highlights.		
	Memo number.		
	Memo saved in correct format – naming convention.		

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, copies of the foregoing were caused to be served upon the following in the manner indicated:

David E. Moore, Esquire
Stephanie E. O'Byrne, Esquire
POTTER ANDERSON & CORROON LLP
Hercules Plaza, 6th Floor
1313 North Market Street
Wilmington, DE 19801
Attorneys for Defendant

VIA ELECTRONIC MAIL

Joshua M. Rychlinski, Esquire
Mark A. Klapow, Esquire
Lisa Kimmel, Esquire
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
Attorneys for Defendant

VIA ELECTRONIC MAIL

Gabriel M. Ramsey, Esquire
Kayvan M. Ghaffari, Esquire
Jacob Canter, Esquire
Warrington Parker, Esquire
CROWELL & MORING LLP
3 Embarcadero Center, 26th Floor
San Francisco, CA 94111
Attorneys for Defendant

VIA ELECTRONIC MAIL

/s/ Michael J. Flynn

Michael J. Flynn (#5333)

EXHIBIT D

1 IN THE UNITED STATES DISTRICT COURT

2 IN AND FOR THE DISTRICT OF DELAWARE

3 - - -
4 THOMSON REUTERS ENTERPRISE CENTRE
GMBH and WEST PUBLISHING CORPORATION, : CIVIL ACTION
5 :
Plaintiffs, :
6 v :
ROSS INTELLIGENCE INC., :
7 : NO. 20-613-LPS
Defendant. :
8 - - -

9 Wilmington, Delaware
10 Friday, October 30, 2020
Telephonic Argument

11 - - -
12 BEFORE: HONORABLE LEONARD P. STARK, Chief Judge

13 APPEARANCES: - - -

14 MORRIS, NICHOLS, ARSHT & TUNNELL LLP
15 BY: JACK B. BLUMENFELD, ESQ.

16 and

17 KIRKLAND & ELLIS LLP
18 BY: DALE M. CENDALI, ESQ., and
JOSHUA L. SIMMONS, ESQ.
(New York, New York)

19 Counsel for Thomson Reuters
20 Enterprise Center GmbH and West
21 Publishing Corporation

22 POTTER ANDERSON & CORROON LLP
23 BY: DAVID E. MOORE, ESQ., and
STEPHANIE E. O'BYRNE, ESQ.

24 and

25 Brian P. Gaffigan
Official Court Reporter

1 APPEARANCES: (Continued)

2 CROWELL & MORING LLP

3 BY: GABRIEL M. RAMSEY, ESQ.,
4 KAYVAN M. GHAFARI, ESQ., and
5 JACOB CANTER, ESQ.
(San Francisco, California)

6 and

7 CROWELL & MORING LLP

8 BY: MARK A. KLAPOW, ESQ.
9 JOSHUA M. RYCHLINSKI, ESQ.
(Washington, District of Columbia)

10 Counsel for ROSS Intelligence Inc

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12
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22 - oOo -

23 P R O C E E D I N G S

24 (REPORTER'S NOTE: The following telephonic
25 argument was held remotely, beginning at 11:04 a.m.)

1 THE COURT: Good morning, everybody. This is
2 Judge Stark. Who is there for the plaintiff, please?

3 MR. BLUMENFELD: Good morning, Your Honor. It's
4 Jack Blumenfeld from Morris Nichols for the plaintiffs.
5 Also on for the plaintiffs are Dale Cendali and Joshua
6 Simmons from Kirk & Ellis. And from Thomson Reuters,
7 Carolyn Blankenship and Jeanpierre Guiliano. And with Your
8 Honor's permission, Mr. Cendali and Mr. Simmons are going to
9 split the argument today.

10 THE COURT: Okay. That's fine.

11 Good morning to you all.

12 And who is there for the defendant, please.

13 MS. O'BYRNE: Good morning, Your Honor.
14 Stephanie O'Byrne along with Dave Moore from Potter Anderson
15 & Corroon for defendant ROSS Intelligence. I'm joined by
16 co-counsel from Crowell & Moring, Gabe Ramsey, who, with the
17 Court's permission, will be arguing for defendants this
18 morning. Also in attendance from Crowell & Moring, we have
19 Mark Klapow, Kayvan Ghaffari, Josh Rychlinski, and Jacob
20 Canter. And from ROSS Intelligence Inc. we have several
21 client representatives of the client as well: Andrew
22 Arruda, who is the CEO of ROSS, Jimoh Ovbiagele, who is the
23 CTO of ROSS, and Maya Bielinski, who is in-house counsel for
24 ROSS.

25 Thank you, Your Honor.

1 THE COURT: Thank you. And good morning to all
2 of you as well.

3 I do have a court reporter on the line taking
4 everything down, so I will note for the record that it is
5 our case of Thomson Reuters Enterprise Centre and West
6 Publishing Corp. versus ROSS Intelligence, Inc., our Civil
7 Action No. 20-613-LPS.

8 This is the time we set to hear argument on the
9 defendant's motion to dismiss the complaint. So we will
10 hear from the defendant first. And I believe Mr. Ramsey.
11 You may proceed when you are ready.

12 MR. RAMSEY: Very good. Thank you, Your Honor;
13 and good day. I'd like to reserve 10 minutes for rebuttal
14 so I'll attempt to frame our discussion accordingly.

15 THE COURT: Okay. I'll let you know when there
16 are 10 minutes left.

17 MR. RAMSEY: Much appreciated. Thank you, Your
18 Honor.

19 Your Honor, there is a single overarching
20 problem across the board with the respect to the plaintiffs'
21 claims in its complaint. There is no direct fact, no
22 plausible inference from any factual alleged material of any
23 copying by either ROSS or third-party LegalEase, and there
24 is no direct fact or any plausible inference from any
25 alleged fact that ROSS had knowledge or intent or any

1 control with respect to any alleged activities of LegalEase.
2 The claims fail to state a claim for these reasons across
3 the board. In other words, plaintiffs have failed to plead
4 enough facts to state a claim for relief that is plausible
5 on its face as *Twombly* requires. There is only guesswork,
6 speculation, and unwarranted inference.

7 First, plaintiffs do not allege any plausible
8 fact of any actual material copied by ROSS into any of its
9 material or its system.

10 So just first off the bat, any of the materials
11 returned by ROSS's system, it is undisputed, do not contain
12 the alleged key numbers or headnotes, which it's less even
13 for purposes of arguing assuming that those things are
14 protectable.

15 In fact, in the briefs, it's not -- it appears
16 that plaintiffs are conceding that the actual opinions
17 returned by the system are not at issue. That is not where
18 the allegations of copying exist, and the Court can take
19 judicial notice of the opinions from the ROSS system
20 attached to the complaint.

21 So then the question is, is there any plausible
22 fact alleged directly -- a factual allegation from which it
23 can be inferred that key numbers and headnotes from the
24 Westlaw system are in ROSS's technology in some way?

25 And the answer is simply no. There is no place

1 in the complaint where there is a fact alleged or any fact
2 from which it could be inferred that key numbers
3 specifically and headnotes specifically are copied into any
4 ROSS technology.

5 In fact, in paragraph 26 of the complaint,
6 plaintiffs admit that ROSS users are able to search for
7 relevant law, and I quote, "by posing a question in natural
8 language as opposed to boolean terms or keywords."

9 This is the only characterization of plaintiffs
10 of the accused technology in the system in the complaint,
11 and it is clear that the characterization is that the system
12 uses natural language. In other words, the language of the
13 underlying judicial opinions, not a structured means of
14 organization such as key numbers or headnotes or some other
15 system like boolean constructors.

16 So the facts that are alleged suggest the
17 opposite of copying of key numbers or headnotes or some
18 structure or reading or understanding or searching for the
19 law.

20 But more broadly, in the complaint there is only
21 speculative allegations that somehow ROSS alleges we needed
22 some "descriptions of content or means by which to organize
23 that content.

24 But there is no factual content. These are just
25 bare conclusory allegations that such a need without any

1 underlying factual content that ROSS actually had such a
2 need or from which it could about entered that ROSS had such
3 a need or that in response to such a need that ROSS actually
4 copied key numbers and headnotes into its technology. There
5 is no factual content.

6 THE COURT: Mr. Ramsey, yes, let me ask you a
7 question on that.

8 MR. RAMSEY: Please.

9 THE COURT: If it was adequately alleged that
10 ROSS copied the headnotes or key numbers in creating its
11 system, even if it were not alleged that it did that copying
12 on an ongoing basis, i.e., in the search results one might
13 get back when using the ROSS system, would that potentially
14 be a sufficient basis for a copyright infringement claim or
15 are you suggesting they have to allege the latter, that is,
16 on an ongoing basis a user will get back key numbers and
17 headnotes?

18 MR. RAMSEY: Well, I believe that the -- to
19 answer your question, if the plaintiff alleged facts from
20 which it was directly established or could be reasonably
21 inferred that ROSS had copied on one or more instances the
22 key numbers and the headnotes and used those in the system,
23 in developing the system, that may state a claim.

24 But that is, that is the defendant's point.
25 This complaint does not state such a fact anywhere from

1 which it could even be inferred that the key numbers and the
2 headnotes were somehow used in the engineering process.

3 So let me, for example, perhaps present it this
4 way. There is nothing that, not even a fact from which it
5 could be inferred that LegalEase downloaded headnotes and
6 key numbers and put them on some medium, handed them off to
7 ROSS and then -- or that there is any feature of ROSS's
8 system from which it could be inferred that, yes, this is
9 this type of architecture, this type of system in the key
10 number system that headnotes somehow drove algorithm
11 development. It is pure sheer speculation.

12 THE COURT: Well, do they really need to reach
13 the level of that it drove your system or drove the
14 development of your system? I mean they do allege that, and
15 I recognize they're just allegations, but you acknowledge
16 have to take them as true if they're not conclusory.

17 They allege that you all induced this third
18 party to reproduce en masse large quantities of materials
19 from Westlaw. Why is it not reasonable to infer from that
20 that when those materials were accessed en masse, the
21 keynotes and the headnotes were somehow employed?

22 MR. RAMSEY: So I think the requirements of the
23 case *Frazier v. City of Philadelphia* answers that question.
24 In order to sufficiently plead a copyright claim in the
25 Third Circuit, it's necessary to allege both access and some

1 factual content from which copying can be inferred.

2 Here, all that is alleged as to LegalEase is
3 that LegalEase access, and it's alleged that there was a
4 large volume of the Westlaw system to search. In other
5 words, that is all we know from the complaint. That is all
6 that can be reasonably inferred is that LegalEase used the
7 Westlaw system to find law.

8 There is not, in addition, as required by
9 *Frazier* and other cases, any factual content from which
10 it can be reasonably inferred that LegalEase has even
11 downloaded key numbers and headnotes.

12 And by the way, even with respect to the
13 allegation of access, there is no facts in the complaint to
14 attach ROSS to that access.

15 But further, there is no factual content from
16 which it could be inferred that it is actually downloading
17 the headnotes and key numbers.

18 THE COURT: You say I can take judicial
19 notice --

20 MR. RAMSEY: Or -- (inaudible, two people
21 talking at once.)

22 THE COURT: Right. You say I can say judicial
23 notice of how ROSS opinions appear when accessed. Can I
24 take judicial notice of how Westlaw opinions appear when I
25 download them or look at them?

1 MR. RAMSEY: I have no objection on behalf of
2 ROSS, and would submit that these are very different, these
3 are very different materials of Westlaw opinions. When one
4 reviews it, has headnotes and key numbers.

5 THE COURT: Right. Well, I don't want to --

6 MR. RAMSEY: And ROSS will continue to --

7 THE COURT: I don't want to supply factual
8 content. It happens to be, of course, I'm familiar with
9 Westlaw, as I'm sure we all are. So this is a technology I
10 have some familiarity with. That generally I would think
11 would be irrelevant to the analysis, but if I could take
12 judicial notice, when I look at a Westlaw opinion, it has
13 headnotes and it has, you know, the key numbering system
14 on it. I don't know how to not have that.

15 So why isn't it at least a plausible allegation,
16 a reasonable inference that is LegalEase copied large en
17 masse portions of the Westlaw database that at least on
18 occasion say copied with it headnotes and key numbering and,
19 therefore, you know, this element of the claim is adequately
20 stated for this early stage of this case?

21 MR. RAMSEY: Well, I would again return to the
22 complaint. There is no factual allegation that actually
23 allows such an inference. All that is alleged is that
24 LegalEase carried out "tons and tons of legal research." In
25 other words, accessed the system. There is no plausible

1 fact that suggests any downloading of any key number or
2 headnote in passing that to ROSS.

3 That's the point. There needs to be some
4 factual content to suggest that there was actually some
5 downloading of that material. And in this case, the chain
6 of inferences breaks even farther beyond that. There
7 would have to be a direct factual allegation or reasonable
8 inference, in fact, that downloading of these particular
9 pieces of content happened. They were handed to ROSS. That
10 ROSS somehow, there is some reason to believe that is more
11 than just the broad level, broad recitation of copyright
12 infringement that those particular features were in ROSS's
13 system.

14 And it's important to note, ROSS's system is
15 publicly available. This is not the kind of case where the
16 product couldn't be reverse engineered. There is no term
17 of a contract that has been pointed to that would stop the
18 plaintiffs from doing reverse engineering and investigating,
19 looking into what goes into ROSS's system, looking at what
20 comes out; how is conducting a real investigation, that
21 would supply facts from which it could be inferred that,
22 that headnotes and key numbers were in fact in the system;
23 there is none of that.

24 You know, this is not a patent case, but I will
25 note, many patent cases that come before this court, as Your

1 Honor knows, it is quite common to require claim charts and,
2 you know, not every detail, of course, needs to be alleged.
3 You don't have to prove your case up front. But there must,
4 under the *Twombly* and *Iqbal* standards, must be some factual
5 content to show that the intellectual property right was
6 infringed, something to suggest that some specificity of
7 an element of a claim is met in a patent case, for example.

8 And the same is true in a copyright case. There
9 must be something about the ROSS's system other than the
10 fact that it is a generally similar legal research system to
11 Westlaw, something more specific than that to suggest that
12 key numbers and headnotes are used in the architecture,
13 which is just not so as it turns out. But there is nothing
14 to suggest that in the complaint.

15 THE COURT: I thought you already told me,
16 though, that even if it's not in the architecture, if
17 it's not in the user interface, but the keynotes and head
18 numbers were used in the development of the ROSS system,
19 that could potentially state a claim for copyright
20 infringement. Didn't we already agree on that?

21 MR. RAMSEY: We did, but there is no -- the
22 point is there is no facts directly alleged or any fact from
23 which it could be reasonably inferred.

24 THE COURT: And won't you agree that in the
25 process, that development process, that is not public. That

1 is not something that the plaintiffs can know at this point
2 on anything other than information and belief; right?

3 MR. RAMSEY: Ah. I disagree with that,
4 respectfully, Your Honor. That is the point about reverse
5 engineering.

6 If plaintiff is doing something more than -- we
7 know this from the law. Plaintiff must plead something more
8 specific than their product is like our product in terms of
9 software, and that is all that is alleged here.

10 In order to get to the point where there is a
11 reasonable inference that the key numbers and the headnotes
12 are used in the product architecture, there must be some
13 reverse engineering. This is a case where the plaintiff,
14 again, could and should have investigated the way that the
15 system worked, observed its features and come up with some
16 feature and factual aspect of the ROSS system that would
17 allow an inference that it is structured and operates in a
18 way using key numbers or headnotes.

19 This is the kind of thing that not every piece
20 could be, of course, known but something could be known
21 about the way that the ROSS's system worked if plaintiff
22 had a theory that was grounded in plausible factual
23 allegations and not just conjecture.

24 That's the point, that if plaintiff wants to
25 plead a plausible case that there is copying and use of

1 headnotes and key numbers in the architecture of ROSS's
2 system, there is plenty of material, and they could have and
3 should have analyzed, reverse engineered, investigated that
4 system to come up with a plausible inference.

5 And the fact that they have been engaged with
6 ROSS for many years and went through a whole litigation with
7 LegalEase, the system is widely and publicly available,
8 and there is absolutely no detail to suggest that, such a
9 copying in the infrastructure, no investigation, the claim
10 fails.

11 And so, again, there is no plausible fact
12 directly or facts from which it could be inferred that
13 this material was copied into ROSS's system or even that
14 LegalEase downloaded any such material and handed it to
15 ROSS. There needs to be more than broad generalities.

16 The case, *Levey v Brown Investment Group* makes
17 it clear unsupported conclusion, unwarranted inferences are
18 just not sufficient. And that is all that is alleged here
19 on information and belief.

20 I'll note that the *Network Managing Solutions*
21 case does make the point that where a product can be reverse
22 engineered, that is a requirement to get to the kind of
23 facts that you would need to allege infringement.

24 And that's the case here, yet plaintiffs allege
25 nothing of the sort. It's just, just a bare conclusory

1 assertion that the materials must be in there some way
2 because the product functions in the same general technical
3 space as Westlaw.

4 I'm going to move on to indirect infringement,
5 Your Honor.

6 So beyond ROSS's content and products, there
7 is also no plausibly alleged facts to support indirect
8 infringement.

9 Nowhere in the complaint the plaintiff set
10 forth any factual allegations at all that ROSS had any
11 knowledge or intent to cause any reproduction, distribution
12 or derivative works by LegalEase or that ROSS had any
13 knowledge of any contract between LegalEase and West or
14 knowledge that there was any exceeding the scope of such
15 an agreement.

16 There is no factual allegations that ROSS knew
17 of the terms of such an agreement between LegalEase and
18 ROSS. All that is alleged is that ROSS at some point asked
19 to use Westlaw, West said no, and that ROSS at some point in
20 time hired LegalEase to carry out legal research. That is
21 all that is alleged.

22 From such bare facts, it is simply not possible
23 to infer that ROSS actually knew about specific terms of
24 LegalEase's agreement with West or even that Westlaw use
25 had anything to do with the relationship between ROSS and

1 LegalEase.

2 It simply can't be inferred from the fact that
3 ROSS was not able -- not permitted to use Westlaw at some
4 point in time and that at another point in time engaged
5 LegalEase to carry out legal research. And, again, that
6 is all the plaintiffs allege with respect to ROSS's
7 relationship with LegalEase. That ROSS engaged in legal
8 research, nothing further than that.

9 From that fact alone, it cannot be inferred,
10 and it is certainly not directly alleged factually, that
11 ROSS caused LegalEase to use Westlaw in the first place in
12 general, that ROSS knew of the contract between LegalEase
13 and Westlaw.

14 During the briefing, a very general contract
15 was attached, I believe that should be disregarded, but
16 nonetheless, even that contract, there is no way to know if
17 that has any bearing on ROSS or LegalEase. They simply have
18 not established there is a particular LegalEase contract
19 with terms that were violated, much less that ROSS knew
20 about that. So, again, it's a similar sort of failing as to
21 the direct infringement claims.

22 THE COURT: It is further alleged that the basis
23 on which ROSS was denied access to Westlaw was that West
24 does not give competitors access to its products. I think
25 it's at least a reasonable inference that LegalEase is not a

1 competitor of Westlaw. And why doesn't it follow from all
2 of that that it's reasonable to infer that ROSS understood
3 they would have to go through some sort of third party, some
4 sort of subterfuge in order to get the Westlaw materials
5 that they knew they could not get directly?

6 MR. RAMSEY: Well, there is no -- again, back to
7 the pleadings standards, there is no facts alleged that ROSS
8 did anything except in general hired LegalEase to carry out
9 legal research. There is nothing wrongful about, you know,
10 negative that can be inferred from hiring a party to carry
11 out legal research, whether one is a competitor or not.

12 There is no facts even alleged that ROSS even
13 knew LegalEase was going to use Westlaw as opposed to the
14 Google search or Lexis or PACER or PacerPro or any of the
15 other tools that are readily available in the world to find
16 the law. That's the failing.

17 And there is also no allegation that ROSS
18 actually knew of any provision in LegalEase's contract, one
19 way or the other. All that is alleged is that ROSS went to
20 a third-party legal research provider and asked for legal
21 research. And that, that is simply not enough to get to
22 the inference that ROSS, and both -- this covers the
23 terrain both for indirect and copyright infringement and
24 for tortious interference. That ROSS knew of the terms of
25 a contract, intended to induce its breach for purposes of

1 tortious interference or for purposes of indirect copyright,
2 infringement knew that whatever LegalEase was doing exceeded
3 the scope of any license or violated terms.

4 There is just no -- ROSS simply didn't know
5 about the contract, didn't know what LegalEase was doing.
6 This was from the face of the complaint. The complaint is
7 silent about those things.

8 So it simply can't be inferred that ROSS
9 intended or knew or induced or contributed to copying any
10 particular material or use of Westlaw even in general.

11 So, again, it's the same failing that -- it's
12 a huge chain of leaps between the simple fact that ROSS is
13 alleged to have engaged LegalEase to carry out legal
14 research and many, many steps beyond that where the chain
15 of inferences breaks both for purposes of copyright
16 infringement and for purposes of tortious interference.

17 So further complicating matters, to complete a
18 plausible copyright claim, it's not just enough to allege
19 that copying happened, there has to be some allegation that
20 copying of copyrightable elements were undertaken by the
21 defendant.

22 Here, there is simply none of that. Again, it's
23 just a general allegation that ROSS engaged LegalEase to
24 carry out legal research and that somehow, not stated and no
25 facts in any sort of reasonable chain from which it could be

1 inferred, that protectable, protectable material was
2 actually copied into ROSS's system or the protectable
3 material was downloaded by LegalEase.

4 Also note from the face of the complaint, the
5 key number system and the headnotes themselves are not
6 copyrightable.

7 We don't need to decide everything related to
8 copyrightability of headnotes or key number systems or
9 discussion related to the law or material related to the
10 law, we just need to look at the pleadings.

11 So very briefly, the headnotes are just
12 recitation of legal rules and legal concepts taken from
13 judicial preponderances.

14 One of the examples given is a direct quote from
15 two Supreme Court cases. That can't be protectable. It is
16 a judicial edict.

17 The second example of headnote states in
18 plaintiff's own assertions the key concepts. Those are
19 plaintiff's words in the case.

20 That is not a creative -- stating the key
21 concepts in a case is not a creative, expressive gesture.

22 And for those reasons, the offered headnotes are
23 not copyrightable.

24 The key number system is just an alphabetically
25 ordered list of legal topics.

1 The examples provided in the complaint -- these
2 are plaintiff's examples -- are discussion of a legal topic
3 in general. The nature and the elements, intent, acts and
4 omission, these are basic building blocks of the law, these
5 are not creative expressions; and therefore the key number
6 itself is, as alleged in the complaint, is not creative in
7 nature because they're just the general ideas of law that
8 any lawyer would pick up and talk about.

9 Talk about the topic of law in general, talk
10 about the topic of law and its nature and elements. That is
11 a requirement of legal rules. Intent, this is mens rea.
12 Acts and omissions act as reas. Basic legal building blocks
13 that do not express anything in terms of communicating to an
14 audience in which the copyright law anticipates.

15 And to provide a copyright on articulation that
16 there is an ordered alphabetical list of legal topics and
17 claiming a monopoly on identifying those, those topics in
18 general, their nature and elements, their intent, the acts
19 and omissions required would provide an monopoly under the
20 law, and that is a dangerous proposition.

21 So with that, I will move on to --

22 THE COURT: Well, before you move on. The
23 arguments about whether there is any plausible allegation
24 of something protectable by copyright, why are those not
25 viewed as affirmative defenses and therefore a premature

1 basis for me to grant dismissal?

2 MR. RAMSEY: Well, so under the pleadings
3 standard, it's clear that plaintiff -- again, plaintiff has
4 to allege copying of copyrightable material. So we're not
5 asking to rule on, pass on the entirety of the defense.

6 But at the same time, under the pleading rule,
7 so a good case is *Riordan vs. H.G. Heinz* in the Western
8 District of Pennsylvania. In that case, the plaintiff posed
9 material in the complaint that the Court found on its face
10 was an unprotectable idea.

11 So we're asking that the Court pass in the same
12 way here. To look at the material in the complaint, the
13 ordered alphabetical list of legal topics, the particular
14 list of elements that are alleged to constitute this key
15 number system, which, by the way, is an unprotectable system,
16 plaintiffs even call it that, and the two headnote examples,
17 and simply pass on the face of the pleadings; much like in
18 the *Riordan* case, that the material posed and alleged is, on
19 the face of the complaint, not protectable.

20 So this was part of the pleading standard that
21 if what is put forward by a plaintiff in a copyright case
22 is not facially protectable is an appropriate, appropriate
23 question for the Court to pass on on a Rule 12(b)(6) motion.

24 THE COURT: How do I factor into all of that
25 the allegations about the registration with the copyright

1 office?

2 MR. RAMSEY: Again, this ties back to the
3 pleadings standards under Rule 12(b)(6). It is true that a
4 very large number and massive body of materials are claimed
5 in the voluminous copyright registrations that are attached.
6 And the cases that were cited in the defendant's brief make
7 clear that a plaintiff can't just point to a massive body of
8 material across many, many registrations and assert there is
9 copying of some protectable material out of this massive
10 body of material, and that is what is happening here.

11 And so then when one -- and the Court must
12 pass and look at the complaint and know exactly what is
13 alleged. And when we do that here, we see, of the material
14 that may or may not be protectable under these very broad
15 registrations, that which is in the complaint is simply not
16 on its face. And we don't -- this stage, you know, will
17 pass further than that.

18 But the case, this is the reason for the
19 pleadings standard that requires that a plaintiff not just
20 plead copying in a very general way but copying protectable
21 elements. Copyright registrations may cover broad swaths
22 of material such as here, that includes some protectable,
23 some unprotectable material. And hence, it's all the more
24 important that the plaintiffs specify something that is
25 actually protectable and something that is protectable that

1 was actually copied.

2 Back to the initial conversation. Here, there
3 is no suggestion that the key numbers or the headnotes
4 themselves are in any ROSS system. There is no fact that
5 those allegedly protectable material, even assuming they
6 were, were copied.

7 So it's, again, just a large chain of inference
8 from an active LegalEase to download material which it's not
9 even, it's not even shown any material was downloaded, much
10 less something that is protectable. That such protectable
11 material was -- there is nothing to infer it was handed to
12 ROSS at all. The complaint is absolutely silent that such
13 material was then put into the hands of engineers at ROSS,
14 and there is some rational reason from the facts to infer
15 that material drove a particular architecture in a ROSS
16 product.

17 The entire chain of inference breaks down. And
18 it is both in terms of copying in general and in terms of
19 copying protectable elements.

20 THE COURT: Doesn't the registration create at
21 least a presumption that there is something protectable
22 within Westlaw?

23 MR. RAMSEY: I concede that in general that is
24 true. But that broad -- again, we're not litigating the
25 entire case here. I agree and concede that in general that

1 is a proposition of law about copyright registrations.

2 But, again, under the pleadings rules, the
3 Court must look at the complaint itself and say what of
4 that material was plaintiff actually alleging. That is
5 what we're passing under Rule 12(b)(6) and nothing more.

6 The defendant submitted in this case the two
7 examples of headnotes and the system, the system under
8 102(b) of the Copyright Act that is not protectable, and its
9 constituent elements. This alphabetical list of topics and
10 the most fundamental "key concepts" of each of those topics.

11 This is the way plaintiff chose to plead their
12 complaint. Plaintiff unfortunately, from defendant's
13 position, have chosen material out of whatever might be
14 copyrightable in a copyright, within a copyright registration.
15 Plaintiffs have chosen material in the complaint that doesn't
16 meet that bar.

17 THE COURT: They suggest at least in their
18 briefing that they think they have something protectable
19 in what they call the compilation, at which I think they
20 mean the entirety of Westlaw and how they put it together
21 in total.

22 Might that be a further plausible allegation
23 here?

24 MR. RAMSEY: Well, first of all, that is not
25 alleged in the complaint. What is alleged in the complaint

1 is only two, two headnotes. In other words, what is
2 alleged is representative of the material that is allegedly
3 copyrighted. Two headnotes and an alphabetical list of
4 legal topics and key concepts ordered within those legal
5 topics that are very, very basic fundamental principles of
6 law, the ways of lawyers thinking about the law.

7 So there is no allegation of a compilation
8 that was -- and certainly not one that was copied by ROSS.
9 Again, back to the failure of alleging copying.

10 There is nothing to even get to copying of a
11 single headnote by ROSS or a single portion of this key
12 number system by ROSS, much less something that could be
13 characterized as a compilation.

14 THE COURT: Do you oppose me giving them leave
15 to file an amended complaint?

16 MR. RAMSEY: Well, I'll put it this way, Your
17 Honor. At this point, given that plaintiffs have had access
18 to ROSS's system to investigate -- it's freely available.
19 They could look at what comes in, look at what comes out,
20 conduct a reasonable investigation, and given the long
21 multiple year history and thousands of documents and
22 engagement with ROSS, we believe it would be futile, but if
23 the Court sees it differently, there would be no opposition,
24 of course.

25 THE COURT: All right. Did you want to talk a

1 little bit about statute of limitations?

2 MR. RAMSEY: So unless Your Honor has questions,
3 I think I will just -- I only have got about five minutes
4 here -- rest on the papers for purposes of statute of
5 limitations just in the interest of time, and instead spend
6 time focused on the failure to plausibly allege tortious
7 interference.

8 I point Your Honor to a couple of cases under
9 the *Travel Syndications Technology* case in Delaware and
10 *Pacific Gas & Electric vs. Bear Stearns* case in California.

11 Regardless of which law applies, it's clear to
12 plead tortious interference it's necessary to plausibly
13 plead both knowledge of the contract and an intention to
14 bring about its breach. Those are the two requirements.

15 And it's, I think it is encapsulated in the
16 indirect infringement that the concepts are very related and
17 the failures are very related.

18 Here, the plaintiffs allege no, no fact from
19 which it can be inferred or directly established that ROSS
20 knew anything about LegalEase's contract, only that
21 LegalEase was a legal research company. So plaintiffs
22 failed to allege the knowledge of the contract and they
23 alleged no act by ROSS to carry out, to bring about any
24 breach of such contract or any particular term.

25 Again, the complaint, as to ROSS's relationship

1 with LegalEase, the only facts in the complaint are that
2 ROSS hired LegalEase to carry out tons and tons of Federal
3 Defender legal research. Carrying out legal research in
4 the United States is not a suggestion of any, any untoward
5 conduct. It's simply not enough to get to the elements of
6 any of the claims in the complaint.

7 And I believe I'm at my time.

8 THE COURT: We've got you at 12 minutes left,
9 so I don't know if you have more you wanted to say at this
10 point.

11 MR. RAMSEY: Well, I think that covers it in
12 terms of tortious interference. Since I've got a couple of
13 minutes by your watch, I will note that under the statute of
14 limitations issue, the only salient factual material alleged
15 in the complaint is that ROSS is in California and that
16 the alleged acts were carried out by ROSS which is in
17 California, and this is quite important in determining which
18 law applies.

19 Under the barring statute, since all of the
20 actors are foreign plaintiffs, the statute of limitations
21 where the claim arose is a question. Here, the claim arose
22 in California, and the question is which state has the most
23 significant relationship of the dispute, and that is under
24 Section 145 of the Restatement of Conflicts of Law. Here,
25 it's in California where the activity happened. It's where

1 ROSS is domiciled. It is where the injury took place. That
2 is a really important one.

3 Really, plaintiffs only response to substantial
4 relationship is to mention that West Publishing is located
5 in Minnesota. Really no more elaboration than that. It
6 fails to mention the other plaintiff is based in Switzerland.

7 And it's clear in the *Ubiquitel* case, that where
8 the injury could have occurred is in multiple ways. "The
9 particular weight" -- those are the words of the case --
10 "should be placed on the place causing the alleged injury."
11 Here, allegedly ROSS's activities in California. So the
12 California statute applies.

13 And as to the substance, the statute has run,
14 because under California law, the statute of limitation runs
15 no later, accrues no later than the breach itself, the
16 underlying breach itself.

17 And here the complaint, the plaintiffs allege
18 that as of July 2017, as early as that, there was awareness
19 that LegalEase was working with this machine learning
20 company. It's clear from the complaint it can be inferred
21 an investigation was ongoing for years because by January
22 2018, LegalEase's contract was terminated, and we know there
23 was inquiry as to ROSS in that case. Plaintiffs simply knew
24 and waited too long.

25 THE COURT: How could I resolve a discovery rule

1 issue under California law on this motion to dismiss against
2 the plaintiffs? Aren't they entitled to the reasonable
3 inferences there?

4 MR. RAMSEY: Well, again, the only allegation
5 in the complaint as to when they knew is an assertion that
6 in July 2017, there was awareness that this legal research
7 company was carrying out acts on behalf of -- they were
8 carrying out acts -- apologies, LegalEase was carrying out
9 acts in July of 2017 on behalf of this legal research
10 company. And it can also be inferred from the allegations
11 in the complaint there was inquiry and attention to that
12 issue, and by January 2018, plaintiffs knew.

13 So based on the complaint --

14 THE COURT: Sure. Sure. Yes. If plaintiff
15 wants to say it's reasonable to infer that that machine
16 learning company was known to be ROSS and we knew that by
17 January 2018, that seems like a reasonable inference I would
18 have to credit, but at the same time if the plaintiff wants
19 to say that it is also reasonable to infer we did not know
20 the identity of ROSS until within two years of when we filed
21 this complaint, that seems like a reasonable inference at
22 this stage of the case and further seems like something --
23 I'm not sure if you have cited any California cases that
24 says I should go ahead and decide that issue against the
25 plaintiff at this stage.

1 Why isn't the answer to all of this even if you
2 are right about California law, at best for you I have to
3 defer deciding the statute of limitations issue?

4 MR. RAMSEY: Right. Well, I have not cited such
5 a case, but I will point out the plaintiffs never actually
6 state when they discovered the alleged tortious interference.
7 So --

8 THE COURT: Right, but have you cited a case --
9 sorry. Have you cited a case because they have to do that
10 in order to survive a motion to dismiss?

11 MR. RAMSEY: We have not, Your Honor. We have
12 not. But, although I think that *Endo-Surgery* says -- this
13 is 35 Cal.4th 797 -- that "plaintiff's attempt to hide
14 behind California's discovery rule is unavailing because
15 that rule applies that requires that plaintiffs specifically
16 plead the time and manner of discovery and the inability to
17 have made earlier discovery despite reasonable due
18 diligence."

19 So there is some obligation under California
20 in this *Endo-Surgery*, 35 Cal.4th 797. There is California
21 law that there needs to be some allegation in the complaint
22 about when plaintiffs discovered or not discovered the
23 alleged tortious conduct for breach.

24 THE COURT: All right.

25 MR. RAMSEY: And again, that silence matters.

1 But again, the Court need not pause only on the statute of
2 limitations. The claim is insufficiently plead in general
3 as discussed.

4 THE COURT: Okay. Let's save the rest of your
5 time for rebuttal, and we'll turn it off to plaintiff.

6 MS. CENDALI: Thank you, Your Honor. This is
7 Dale Cendali from Kirkland on behalf of the plaintiffs.

8 ROSS's argument and briefs fundamentally
9 misunderstand the applicable pleading requirements, the
10 nature of this case, and key facts.

11 Starting with a pleading requirements. I think
12 Your Honor summed them up well in the *CAE vs. Gulfstream*
13 case which stated that, "A motion to dismiss may only be
14 granted if, after accepting all well-pleaded allegations
15 in the complaint as true and viewing them in the light
16 most favorable to plaintiff, plaintiff is not entitled to
17 relief."

18 In fact, this Court elaborated, citing Third
19 Circuit law in *Wilkerson*, that, "The complaint must state
20 enough facts to raise a reasonable expectation that
21 discovery will reveal evidence of each necessary element of
22 each plaintiff's claim."

23 This standard has been more than met by the
24 detailed complaint before the Court.

25 Now, the second issue, moving beyond the

1 misapprehension about the pleading requirements or at least
2 the threshold one, is the nature of the case. As I think
3 Your Honor's request made clear, we're not -- this complaint
4 is about accusing ROSS of surreptitiously, when they were
5 rejected by themselves to do it, getting LegalEase to obtain
6 Westlaw content and use that to create a competing platform.

7 That is right in their paragraph 35. "Upon
8 information and belief, after LegalEase copied the Westlaw
9 content, it distributed that content to ROSS. ROSS then
10 copied that content and used it to create its platform."

11 That is replete throughout the entire complaint.

12 Yes, it may be that what ROSS is actually also
13 making available to its consumers after the creation might
14 also infringe, but what this complaint is focusing on now is
15 what it did to create the platform to begin with. And that
16 is clear in the complaint.

17 It's also clear, as I think again Your Honor
18 apprehends from its, the Court's questions that we're not in
19 a position to be sitting there with ROSS's engineers and to
20 know exactly what they did once they succeeded in their goal
21 of obtaining the content that it paid LegalEase to provide
22 it. That is why that was pled on information and belief.
23 That material is not publicly available.

24 But we have more than set forth, you know,
25 plausible facts that said that they came, after being turned

1 down by West, they ran to LegalEase, that they knew that the
2 contract that LegalEase had with us said that they were not
3 entitled to give material to a competitor.

4 And, again, this is right in paragraph 3 of the
5 complaint. "Upon information and belief, ROSS intentionally
6 and knowingly induced a third party called LegalEase to
7 breach its contract with West by engaging in unlawful
8 reproduction of plaintiffs' uncopyrighted content and
9 distributed that content en masse to ROSS. ROSS did so
10 after asking for, and being explicitly being denied,
11 access to Westlaw by West on the basis West does not give
12 competitors access to its products. Thus, ROSS induced
13 West -- LegalEase to engage in this unlawful activity
14 knowing that it violated the terms of LegalEase's contract
15 with West."

16 So at various times in my friend's argument,
17 they argued that, well, there is nothing in there that, that
18 is alleging that ROSS knew what LegalEase was doing or
19 knowing that it had this contract or knowing what it meant.
20 What we -- we pled exactly the opposite.

21 The other thing that I think is important is not
22 only is it not publicly available, what ROSS's engineers
23 did with the material it received en masse from LegalEase
24 pursuant to its asking them to give it to them, but what is
25 also not publicly available is what their actual interfaced

1 consumers look like.

2 At various time in counsel's argument, he
3 said that, well, you know, the ROSS platform is publicly
4 available. We should have somehow, you know, looked at it
5 and reverse engineered it or something to that effect.

6 Leaving aside that there is zero requirement
7 in copyright law to try to reverse, reverse engineer some
8 public thing to try to figure out what was taken from you
9 to create it, it's also important to note that prior to
10 us filing this complaint, ROSS's terms of service had a
11 provision explicitly prohibiting competitors from using its
12 product.

13 Only after that we filed the complaint would
14 that provision was tellingly removed. I don't think it
15 really matters because the nature of this complaint, as I
16 said earlier, isn't about the interface or at least at this
17 point isn't about the interface because we haven't had
18 access to what they're giving people.

19 What this complaint is about that they used
20 Westlaw's copyrighted material to create a competing
21 platform. To be able to get that fast development time and
22 rush out a competing platform.

23 And to be clear, counsel also repeatedly kept
24 talking about this case as if it were just about the Westlaw
25 key numbering system or the headnotes.

1 No doubt those are material that or it's part of
2 our copyright. But our copyright also is our registrations,
3 1-1, pages 2 and 3 of our complaint indicate. And paragraph
4 2 of our complaint also specifies, is that we also have a
5 copyright in the compilation that we created. It's not just
6 these, you know, standing on its own, headnotes but it's
7 the entire structure, sequence, and organization that we put
8 together to find, analyze, to explain the law.

9 And the complaint details all the myriad
10 creative choices that went into creating that content. And
11 we have not just one, not just two, but 161 copyright
12 registrations attached to our complaint that all of which
13 under Third Circuit law are entitled to a presumption not
14 just of validity but also a presumption of originality.
15 And that is more than enough to plead a claim of copyright
16 infringement, which we have done.

17 Now this --

18 THE COURT: Ms. Cendali, let me ask you. So
19 when you refer to compilation in the answering brief as
20 something you are going to argue is protectable under
21 copyright, that allegation is found in paragraph 2 when you
22 refer to plaintiff's copyrighted content and organization?
23 Is that what I should understand?

24 MS. CENDALI: That's right. That's the first
25 time that it is mentioned. But throughout the complaint,

1 Your Honor, we also talk about, I think it starts in, it
2 starts in paragraph 11 and it goes from there. It's also
3 talked about in paragraph 12 which talks about plaintiff's
4 numerous creative choices about how to organize cases, which
5 cases to place in the classification, require substantial
6 investments of time, technological resources, and money over
7 the course of decades.

8 And then we go on. Paragraph 13 talks about
9 plaintiffs' complex hierarchy, and what is done to make
10 choices as to -- and when we all know that even Your Honor's
11 decision in this case could be probably sliced and diced 100
12 different ways or maybe not sliced and diced. Maybe it will
13 only be sliced and diced in 60 ways or 200 ways and all
14 sorts of keynotes and headnotes can be created.

15 And as we plead in the complaint in detail, we
16 took the time to talk about this is all part of our
17 creativity. Paragraph 15 as well talks about how Westlaw
18 includes access to volumes of proprietary material,
19 including such as West headnotes, case summaries, and other
20 Westlaw created content, databases, compilations of case
21 law, et cetera. All of that was pled in our complaint.

22 And they copied it en masse. This isn't just
23 about the headnotes. That's not what we, what we pled, and
24 that is not what our copyright registrations are limited to.

25 In fact, as I was, I was saying, you know, if

1 Your Honor looks at the copyright registrations annexed to
2 the complaint, such as Docket 1-1, page 2, it's the author
3 of compilation, revisions, addition, et cetera.

4 And that is also true with regard to 1-1, page
5 3, compilation of previously published case reports,
6 including, but not limited to, opinions and also syllabi in
7 Westlaw paragraphs.

8 Westlaw is much more than the headnotes and
9 keynotes, and it is certainly much more than the one or two
10 headnotes or keynotes that we put in the complaint, just to
11 give Your Honor an idea of the story.

12 We certainly were not saying that is the only
13 thing that we are suing on, and I don't think that is a fair
14 reading of the complaint. Rather, we're suing on all of
15 Westlaw, all of our proprietary material which includes our
16 revisions, our compilations, our additions, our analysis,
17 and the hierarchy that we detail at length in our complaint.
18 And that is more than enough.

19 THE COURT: All right. But what you do in the
20 complaint also at paragraph 1 is create a defined term,
21 "Westlaw content." And I think by your own concession, but
22 I want to make sure I got this correctly, Westlaw content
23 is a term that also encompasses things that you do not
24 contend you have a copyright on. For instance, judicial
25 opinions and statutes.

1 So I think some of the confusion here and
2 some of the argument that you are facing is you don't say
3 compilation as a defined term in the complaint, although
4 you suggested it in your belief. And you don't really make
5 clear in your complaint your acknowledgment that some of
6 what you are defining as Westlaw content is actually not
7 protectable. So help me with that.

8 MS. CENDALI: I'm happy to, Your Honor. What we
9 intended to do and said in paragraph 1 of the complaint is
10 that, "Plaintiffs created and nurtured their well-known
11 Westlaw products since inception, including, without
12 limitation, its unique West key number system and West
13 headnotes."

14 And to be clear, the West key number system (A),
15 it's without limitation, as I point out in the definition of
16 Westlaw content. But the West key number system, which we
17 explained at length in those paragraphs that I referred Your
18 Honor to a few minutes ago with regard to the hierarchy,
19 that is all of the compilation, the creative structure, and
20 organization of Westlaw.

21 We talk about and repeated paragraphs in this
22 complaint about how they took our structure, sequence, and
23 organization. For example, we say on paragraph 11, "Westlaw
24 makes legal research seamless through its well designed
25 structure, sequence, and organization."

1 And our point is, well, we don't know, since
2 we're not inside their company, exactly what they took but
3 they took all of our content. And to make it also clear, I
4 realize I didn't completely answer your question, we did
5 not define and did not intend to define Westlaw content as
6 relating to unprotected materials.

7 The copyright registrations in fact are clear
8 on that. The copyright registrations state on their face,
9 and this is annexed to the complaint in Docket 1-1, page 3
10 as well, that copyright is not claimed as to any part of the
11 original work prepared by United States Government officer
12 or employee as part of that person's official duties.

13 That material would not be included in the
14 definition of Westlaw content. It couldn't be because it's
15 not part of our copyright registrations. Rather --

16 THE COURT: Yes. Where does your complaint make
17 that clear and give the defendant notice of that?

18 MS. CENDALI: Well, I think it makes it clear
19 by defining Westlaw content for, for what it is, which is
20 its unique West key number system and the West headnotes,
21 without limitation. And I think it also makes it clear
22 because we attached 161 copyright registrations to the
23 complaint that disclaimed that material. We are not
24 claiming copyright on that.

25 THE COURT: How about the search engines and

1 algorithms? Are you claiming copyright protection on those?

2 MS. CENDALI: Yes, the search engines and
3 algorithms are part -- they're part of the compilation.
4 They're part of the hierarchy and the structure of how
5 Westlaw is created and operates. And that is definitely
6 part of our, of our copyright claim, and part of our
7 registration.

8 THE COURT: And how does your complaint give
9 reasonable and adequate notice to the defendants that that
10 is part of what they are alleged and have to defend against?

11 MS. CENDALI: Well, if Your Honor doesn't think
12 it gives reasonable notice, then, you know, we submit we
13 would be happy to amend to say that. But I think that we
14 did our best. I hope we succeeded, but we did our best to
15 say that, such as on paragraph 11, editorial enhancements
16 such as West proprietary headnotes, notes of decisions,
17 and the WKNS are just a few examples of the creative and
18 original material authored by West.

19 And then we spent a lot of time talking
20 especially in paragraph 13, about the different hierarchy
21 and structure that was created. And we annexed the
22 copyright registration that was clear that it covers
23 revisions, compilations and does not cover material created
24 by people like yourself. That's what the registrations
25 reflect, and that is what we thought we did in the

1 complaint.

2 But moving on, Your Honor to, if you permit, to
3 so far we've just been talking about the claims of direct
4 copyright infringement. Counsel also, in oral argument,
5 talked about our secondary liability indirect claims.

6 And there, I think it's important to make a
7 threshold point, which is that they have waived argument
8 with regard to their secondary liability claim.

9 As Your Honor recently found on, just recently
10 on October 8th of this year, in the *Align Tech* case,
11 where you wrote that you would not evaluate the merits of
12 something that wasn't raised in the opening brief, nowhere
13 in their opening brief did they allege that they would be
14 making arguments about the sufficiency of our indirect
15 infringement claims.

16 Moving from there, counsel also talked about
17 some argument with regard to copying of the constituents
18 elements and the like. And I think it is important to
19 remember that there is not any kind of requirement as they
20 seem to suggest that we have to somehow parse through all
21 of Westlaw to identify in detail issues with regard to it
22 as they seem to want to do. Well, I don't know. You should
23 be specific as to whether this is, this headnote you think
24 is protectable or that headnote, you know, may be not be as
25 good or something to that, to that effect.

1 Again, our copyright registrations are clear
2 that the revisions, the compilation are ours and that the
3 government works are not.

4 But I think that the *Micro Focus* case decided
5 by Judge Andrews a few years ago is a very good case for
6 today's discussion. Because there, the defendants, too, try
7 to argue that, well, the plaintiff, in a software case, you
8 know, failed to identify -- to break down and identify in
9 their copyrighted software what original elements they
10 believe were worthy of copyright protection.

11 And Judge Andrews dismissed this argument. He
12 said, "The defendant's original element theory is not the
13 correct standard. For purposes of Rule 12(b)(6), a
14 complaint only needs to allege specific original works are
15 the subject of a copyright claim. In the present case,
16 plaintiffs identified the software as the original work in
17 question, and this is sufficient to withstand a motion to
18 dismiss."

19 Plaintiff also tried to tackle on this motion to
20 dismiss the idea that the headnotes of the West key
21 numbering system is somehow not protected by, by copyright.

22 Well, the first point is that is something that
23 they can be free to address in discovery but isn't proper
24 for a motion to dismiss because we have a presumption of
25 validity and a presumption of originality. We have 161 of

1 them, and therefore it's an affirmative defense, as the
2 *Masimo* case talked about, that Your Honor alluded to, for
3 them to try to rebut that presumption.

4 And as the cases cited in our brief also state,
5 that there is no pleading requirement to plead around an
6 affirmative defense. There is no obligation to do that.

7 Moreover, I'll also say that the Eighth
8 Circuit in the *West Publishing* case already found that there
9 was a copyright in Westlaw's original expression in the
10 compilation of its, of its material.

11 And I'll also point out that the Supreme
12 Court recently in the *Georgia vs. Public Resources* case,
13 specifically distinguished between materials that are
14 created by officials empowered to speak with the force of
15 law -- which sadly means, Your Honor, that your writings are
16 not protectable by copyright, at least in your official
17 capacity -- with works that are protectable that are created
18 by private parties.

19 That distinction was in the majority opinion
20 authored by Justice Roberts. And then Justice Ginsberg,
21 in her dissent, before going into other areas, said, "all
22 agree that headnotes in syllabi for judicial opinions --
23 both a kind of annotation -- are copyrightable when created
24 by a reporter of decisions."

25 The bottom line, Your Honor, is that we did our

1 best. You know, it's hard to put your entire case in a
2 complaint. That is not what Rule 8 is about. But we
3 tried our best to explain why plaintiffs did what they did,
4 what their scheme was, how they were trying to get around
5 the refusal by us to let them use Westlaw, to create a
6 competitive platform. How they knew of that requirement,
7 that limitation. That they went to LegalEase anyway to get
8 it indirectly what they couldn't get directly. And that
9 they used it to rush to market with a competing platform.

10 And that is what this case is about. We also
11 believe that we plead that they took both directly and
12 indirectly Westlaw content, which we intended to indicate,
13 without limitation, was broad. And we attached the
14 copyright registrations that reflected that which included
15 the fact that related to the compilation, as we also said
16 in paragraph 2, and that it did not relate, as the base of
17 the registrations also say, to government works.

18 We did our best. We think that we more than
19 satisfied the pleading requirements in Rule 8. And we
20 respectfully request, Your Honor, that it's time now to
21 start discovery so that both sides, we can further develop
22 our affirmative claims, and ROSS is entitled to develop its
23 defenses.

24 With that, unless there are more questions on
25 the copyright aspect of it, I'd like to hand it over to

1 my partner, Josh Simmons, to talk about the tortious
2 interference claims.

3 THE COURT: All right. Let me ask you a few
4 more questions, and then we will turn it over to him.

5 If, just for the sake of argument, if I don't
6 dismiss the case and I don't require you to amend, you have
7 referenced in discovery what would you envision as the
8 mechanism and how early might it be that you would give
9 greater specificity to the defendant as to what you are
10 contending is protectable under copyright within the subset
11 of Westlaw content? And what it is you are alleging that
12 they copied from that protectable content? How soon would
13 they get more specific understandings of what this case is
14 about there your perspective.

15 MS. CENDALI: Okay. Let me take it from two
16 respects.

17 First, in terms of the protectable content, how
18 it would -- was that I think your second question -- how
19 would, more detail about what they took? I believe that is
20 what you were asking, Your Honor.

21 THE COURT: It is really both sides of it. They
22 have arguments that I need to evaluate that have you not
23 been specific enough about what you contend is protectable
24 content and, further, what you contend that they copied.

25 So they're telling me I should dismiss the case

1 or, at worse, make you replead. If I don't go with either
2 of those options but I have concerns that they don't really
3 have enough notice as to what you are alleging, how would
4 you propose in a post-motion to dismiss world that you help
5 alleviate those concerns?

6 MS. CENDALI: Okay. First, Your Honor, in terms
7 of what they copied, they know better than we do as to what
8 they copied. They know what they sent to LegalEase, they
9 know what they asked LegalEase to get them. They know what
10 they did with the materials they got from LegalEase.

11 At this stage, without discovery, we can't
12 look behind the curtain and see what it was that they did,
13 but they know better than we do as to what they took from
14 Legal -- from LegalEase, what they copied to create the
15 system.

16 But what happened is in discovery, we would
17 no doubt be able to find out through discovery as to what
18 communications with LegalEase, what they did with the
19 materials that they got, and how their engineers used that
20 material to create the system. That is something that we
21 plead, and I don't know of a case that says we need to plead
22 more than that.

23 We certainly don't need to replead, as Judge
24 Andrews' opinion in *Micro Focus* has said, we don't need to
25 parse through our 161 Westlaw registrations to further

1 identify what is protectable and what isn't because the
2 fact of the matter is, everything that we registered has a
3 presumption of validity. And what we registered was a
4 compilation, the revisions, the headnotes, and we did not
5 register and have a carveout for the government works, the
6 cases themselves. That is already in there.

7 I don't know of a case that says you are
8 supposed to do more than that. I know of cases such as
9 *LegalEase* that says -- excuse me, such as the *Micro Focus*
10 case that says that. Otherwise, similarly, Your Honor, in
11 the *Vianix vs. Nuance Communications* case in the District of
12 Delaware, the Court found that simply naming the technology
13 that and providing the registrations relating to that is
14 enough to satisfy the pleadings standard of Rule 8.

15 Now, as a practical matter, what will happen in
16 discovery is they will know doubt attempt to try to argue,
17 well, you have already heard some of that. Well, you know,
18 we think that some of the things that your compilation or
19 your, your headnote, you know, we don't like this headnote,
20 we don't like that headnote. We're going to try to argue
21 that some of those things aren't protectable.

22 That is part of their affirmative defense and
23 part of their burden to rebut our presumption of validity
24 that the Third Circuit, for example, in the *Ford Motor* case
25 has made clear belongs to us.

1 And they're free to do that. They're free to
2 have 30(b)(6) depositions of our people. They're free to,
3 you know, to try to rake us over the coals as to, well, I
4 don't know about this headnote, I don't know about that
5 headnote.

6 Presumably, some of that will be less important
7 depending on what they actually took. What we'll end up
8 doing is no doubt focusing on the material that they
9 ingested and how they used it as opposed to everything at
10 Westlaw. There is not a lot of need to go over everything.
11 Most likely, both sides will be focusing on what they
12 actually used, and that will be a lot of the focus of the
13 analysis.

14 But the point is right now, we've plead
15 detailed -- we have, we have satisfied the two part test of
16 *Feist*. We plead ownership of a valid copyright and 161
17 registrations with their validity and presumption. They are
18 free to rebut pit. And we also pled copying by them, both
19 direct and, not challenged until their reply brief, indirect
20 liability.

21 And we alleged that with specific facts. And
22 counsel is just not correct in saying that we didn't have
23 allegations in there that are specific as to their knowledge
24 and as to their use. We did, and I think the complaint sets
25 it out.

1 THE COURT: I do want to follow-up a little bit
2 on that. Part of it, what they copied, why shouldn't I
3 understand what you are telling me to be, hey, we're just
4 completely speculating here that the defendant actually used
5 some of our protected material. We really don't know, we
6 just suspect they could not have developed their product
7 so quickly if they didn't. But, you know, let us get to
8 discovery and then we'll find out if our suspicions are
9 correct.

10 Have you alleged anything more than that?

11 MS. CENDALI: Well, I think they have, Your
12 Honor. I mean we alleged everything that we can since we
13 can't, we can't go behind the scenes and look at exactly
14 what their engineers are doing. That is why as Your Honor
15 noted, information and belief is, is entirely appropriate
16 in here because of their own conduct.

17 But I think, as you were suggesting, it is a
18 more than plausible inference if you were denied access, as
19 we pled, to Westlaw and then they hired LegalEase to copy
20 our content, which we pled, and provided to them en masse, I
21 think it's a reasonable, plausible inference that you should
22 go our way that they used it. I mean why would they go
23 through all this if they didn't use it?

24 I don't know what more I could even say on this,
25 because they're the ones who have all that material. But

1 it's certainly a very plausible inference. And this
2 happens. Again, I look at the *Vianix* case and other cases
3 that we cited in the briefs, if someone took the material
4 and you alleged plausibly, and they don't deny that they
5 contracted with LegalEase to do this, of course, but they
6 took the material from LegalEase. They may have LegalEase
7 give them enormous material of material, which we pled.

8 It's reasonable to think that they did that for
9 a reason and that they copied it. And there is nothing more
10 I can know now because I have no access to their system.

11 THE COURT: All right. Thank you. You
12 mentioned Judge Andrews' *Micro Focus* decision.

13 There, I think he sets out basically a four-part
14 test to apply when there is a motion to dismiss in an
15 infringement claim like this. Do you agree that that is a
16 reasonable framework for me to follow?

17 MS. CENDALI: I actually think that that goes
18 beyond the two-part test of the Supreme Court in *Feist*. So
19 I'm not sure if the Supreme Court, to be honest with you,
20 Your Honor, would necessarily agree with that.

21 That being said, the actual application of that
22 test would fit this case because as I'm looking at Judge
23 Andrews' decision -- and I note, by the way, that Judge
24 Andrews' decision also cites, pardon the expression, the *Dam*
25 *Things From Denmark vs. Russ Berrie* case, the Third

1 Circuit case that says that complaint has to assert two
2 essential elements, ownership of copyright and copying by
3 the defendant, done.

4 But then Judge Andrews goes beyond to say which
5 specific original works of the subject of the copyright
6 claim?

7 Well, here, the 161 Westlaw works.

8 Two, ownership of the copyrights of those works.

9 Well, that is owned by Thomson Reuters. We put
10 that in there.

11 Three, registration of the works in question
12 with the copyright office.

13 Check, also done.

14 And four, by what acts the defendant infringed
15 the copyright.

16 And that, we also allege. We allege it on
17 information and belief that they copied the material that
18 they illicitly obtained from LegalEase to create their
19 competing platform.

20 More than that, we would not be privy to at
21 this point. But we detailed the volume of what was passed
22 over. We detailed and discussed how, the information about
23 the algorithms, and we think that that is enough at the
24 pleadings stage to get us into discovery, which I circle
25 back to where we started, Your Honor, which is, you know,

1 your point that the complaint must state enough facts to
2 state a reasonable expectation that discovery will reveal
3 elements of each necessary element of a plaintiffs claim.

4 THE COURT: Okay. Thank you. You have answered
5 my questions.

6 There is about 10 minutes left for plaintiffs;
7 and you can pass it off to your partner, if you wish.

8 MS. CENDALI: Thank you, Your Honor.

9 MR. SIMMONS: Good afternoon, Your Honor.
10 This is Joshua Simmons. I'm going address the tortious
11 interference claim.

12 To kind of a start where Mr. Cendali left off.
13 Contrary to Mr. Ramsey's description, plaintiffs have
14 alleged each element of their tortious interference claim.

15 As to the existence of a contract, no one
16 disputes that LegalEase is alleged to have entered into a
17 subscription agreement with West. And that is at paragraph
18 29.

19 As to ROSS's knowledge of its subscriber
20 agreement, plaintiffs allege that after ROSS requested and
21 was denied access to Westlaw, as Your Honor then noted in
22 your questions, ROSS hired LegalEase to acquire access to
23 and copy plaintiffs' valuable content. That is paragraph 1.

24 And it did so because it "knew that LegalEase
25 had a valid contract with West." That is paragraph 51.

1 As to intentionality, the whole complaint
2 frankly is about ROSS's intent and the scheme between these
3 two companies, but specifically ROSS is alleged to have
4 instigated its scheme knowing that it violated the terms
5 of LegalEase's contract with West. That is paragraph 3.

6 And thus when ROSS caused LegalEase reproduction
7 and distribution, it's alleged to have done so knowing of
8 the subscription agreement and that doing so would breach
9 those terms. That is paragraph 3, also 28 through 29, 51
10 through 52.

11 In fact, paragraph 51 specifically alleges that
12 ROSS intentionally instructed LegalEase to act in breach of
13 the contract.

14 As to the remaining claims, I don't think those
15 are in dispute. Elements, I don't think they're in dispute
16 at this point, you know, as to acting without justification.
17 As we point out, the *Telluride* case makes clear, that is
18 actually ROSS's burden and they can't show it was justified
19 on a motion to dismiss, but in any case, we alleged that it
20 was not justified in paragraphs 3, 30, 31 and 51. And that
21 the damages, ROSS does not dispute paragraph 53 of the
22 complaint and otherwise we discuss are harmed.

23 Under *Travel Syndication*, which was mentioned
24 earlier, no more than an allegation that ROSS participated
25 in the breach is required. And we have done far more than

1 that.

2 Moreover, under *Twombly*, our allegations are
3 taken as true and viewed in the light most favorable to us;
4 so, you know, it's simply wrong to suggest that we were
5 required to do more at this stage given all of that, of that
6 pleading.

7 THE COURT: Let me stop you there. Going back
8 to, I think you cited paragraph 1. What was the portion
9 of paragraph 1 that you think supports, if you were saying
10 this, the allegation that ROSS knew LegalEase had a contract
11 with West?

12 MR. SIMMONS: I think for that, I was citing
13 paragraphs 1, 3, and 51. I think the best, I think the best
14 of those quotations is on paragraph 51 which is where we
15 write, "Upon information and belief, ROSS knew that
16 LegalEase had a valid contract with West."

17 THE COURT: Do you see something helpful to you
18 in paragraph 1 on this point?

19 MR. SIMMONS: Well, yes, I do in the sense
20 that, you know, we also allege that ROSS explicitly and
21 surreptitiously, after being denied permission, used
22 essentially what is LegalEase to enact and obtain illegal
23 content, and it did so to create the competing platform.

24 So in terms of knowledge of the contract, it
25 knew that it was denied access. As Your Honor pointed out,

1 it was denied specifically because it was a competitor.

2 Turned around and hired another company.

3 And then when one would assume the reason they
4 did that is they knew that they needed someone else to sort
5 of use some subterfuge to get access to the material.

6 THE COURT: Okay. But where in that is there an
7 allegation that ROSS knew that LegalEase had a contract and
8 that what ROSS was asking LegalEase to do would be a breach
9 of its contract with Westlaw? Where is that alleged in this
10 complaint?

11 MR. SIMMONS: Sure. So, Your Honor, we alleged
12 that in a couple different places.

13 Paragraph 3 I think is particularly helpful
14 on this where it says, "ROSS intentionally and knowingly
15 induced a third party called LegalEase to breach its
16 contract with West by engaging in the unlawful reproduction
17 of our copyrighted content and distribution of that content
18 en masse to ROSS."

19 THE COURT: Well, why is that not just
20 conclusory and parroting the elements of the tortious
21 interference claim?

22 MR. SIMMONS: So I don't, I don't think it is
23 conclusory because you have to -- because it would be --
24 that is a statement that would be read in conjunction with
25 the specific allegations of what LegalEase did the breaching

1 on, which is paragraphs 18 and 19.

2 And so the point here is that they knew --
3 you know, there is multiple allegations of knowing of the
4 contract. We talk about what those terms were and what
5 LegalEase did and say they, you know, intended that
6 LegalEase would breach them.

7 And under the, under the *Travel Syndications*
8 case, that is what you need to plead at the motion to
9 dismiss stage, particularly when all of the inferences have
10 to be taken in favor of us.

11 THE COURT: All right. Did you want to talk
12 about the statute of limitations?

13 MR. SIMMONS: Sure, Your Honor. In terms of
14 statute of limitations --

15 MS. CENDALI: Just to, just to -- not to double
16 team, Your Honor, but I will also point out paragraph 3
17 specifically said that, "ROSS induced LegalEase to engage in
18 this unlawful activity knowing it violated the terms of
19 LegalEase's contract with West."

20 THE COURT: Thank you.

21 MR. SIMMONS: Turning to statute of
22 limitations, the Third Circuit explained in *Methel vs. Gendy*
23 Co. (phonetic), which is cited in the *Travel Syndication*
24 case I was mentioning. That because statute of limitations
25 affirmative defense, under the law of this Circuit, you

1 know, you can only raise it on a Rule 12(b)(6) motion if
2 it is apparent on the face of the complaint that it should
3 apply. Otherwise, as in various cases, including Your
4 Honor's, the defense is best left to a later stage of the
5 pleading -- of the proceedings.

6 I think that is the better course here because
7 there are two different issues that come up with plaintiffs'
8 argument.

9 The first is the choice of law issue that we
10 didn't hear a lot about this morning, but essentially, you
11 know, because the statute of limitations, the tortious
12 interference claim, rather, is found in Minnesota law, it
13 doesn't, we don't even get into what people knew or when
14 or the rest of it.

15 When you look at all of the factors, it's
16 clear that Minnesota law applies, and that would mean that
17 Delaware's three-year statute of limitations applies.

18 That is true when you look at the place where
19 the injury occurred. Your Honor held in *Grynberg vs. Total*
20 that a corporation sustains injuries where it incorporated
21 or where it had offices. That's a tortious interference
22 case. And that is West.

23 Now, plaintiff said, oh, maybe it was Thomson
24 Reuters but the subscriber agreement is with West, so the
25 only party who they were tortiously interfering with was

1 the West subscriber agreement, and so the harm is all in
2 Minnesota.

3 That is all that is necessary there. And
4 because of that, a great weight is placed on where the harm
5 is placed as opposed to in other cases where there might be
6 a harm in multiple locations.

7 As to the place where the conduct occurred,
8 you know, when it's in only one -- when the harm is only in
9 one state, in other words, because the harm is only in
10 Minnesota, we don't actually give that much weight to where
11 the conduct causing it was created. That is the *Eureka vs.*
12 *Range* which we cited in our brief.

13 And so ROSS raises sort of not out of the
14 complaint but just sort of raises, oh, well, the conduct
15 must have occurred in their California office, but that is
16 not in the complaint so that is not an allegation you can
17 decide that on.

18 Certainly, all inferences have to go our way,
19 but what the complaint does allege is there was an illicit
20 scheme between ROSS and LegalEase, and LegalEase is
21 incorporated in Michigan. So on this factor, *Twombly* would
22 suggest that it is not decidable at this stage, so we can
23 just look to other factors, but in any case it would get
24 little weight.

25 On the third factor, where the parties are

1 located, yes, ROSS and West are in California and Minnesota,
2 but they're also incorporated in Minnesota and Delaware.
3 And so based on their location of incorporation, that would
4 mean we would apply the Delaware three-year statute of
5 limitations. Just because ROSS is based in California
6 doesn't mean that factor wouldn't go our way.

7 THE COURT: Right. Let me interrupt you. You
8 have got two minutes left. I have two more questions for
9 you.

10 MR. SIMMONS: Okay.

11 THE COURT: So about Minnesota, is anything
12 alleged by Minnesota in the complaint other than that is
13 where West has its principal place of business. That is,
14 is there anything about the subscriber agreement? Is there
15 anything about what law governs that? Is any of that in
16 the complaint?

17 MR. SIMMONS: So the subscriber -- so we do
18 reference that West is in Minnesota and then discuss, you
19 know, West in part of the complaint claim. The subscriber
20 agreement was not attached to the complaint, but it is
21 incorporated by reference because it discussed -- its terms
22 are specifically discussed, and the *Runnion* case we cited
23 in our papers makes clear that when you are discussing a
24 document, you can consider it in deciding whether a claim
25 is improperly pleaded.

1 So from our perspective, that document which
2 we attached to our answering brief at 16-1 can come in. It
3 says it's a West subscriber agreement and that it is based,
4 the law is based in Minnesota.

5 But Your Honor doesn't need to decide that
6 based on the subscriber agreement alone because there is no
7 question that for tortious interference claim, the harm is
8 sought where West is located. And that is in the complaint
9 at paragraph 7.

10 THE COURT: All right. And if alternatively I
11 were to decide that California law applied, Mr. Ramsey was
12 citing to I think it was *Endo* decision at end of his earlier
13 argument.

14 Can I decide the discovery rule issue at this
15 stage consistent with California law? What is your view on
16 that?

17 MR. SIMMONS: No, you can't, Your Honor. And
18 this at least two reasons, I guess maybe even three reasons
19 for that.

20 First, Mr. Ramsey cited to a California state
21 court case, and under *Erie*, the pleading rules are actually
22 determined by the federal court of law. And so Your Honor's
23 decision in *TL of Florida vs. Terex* is a better place to
24 look for what needs to be pleaded. And Your Honor
25 specifically noted that you frequently can't decide these

1 issues on this motion to dismiss and they're not really
2 amenable to that.

3 I would also point Your Honor to as *Ausikaitis*
4 *vs. Kiani* which says, "a plaintiff is not required to plead
5 sufficient facts so as to avoid affirmative defense based on
6 the statutes of limitations."

7 So we didn't need to sort of anticipate that
8 they would bring this claim, certainly not that they would
9 bring it based on California law. And so Your Honor need
10 not reach that issue at all on a motion to dismiss, but the
11 additional reason to not raise it, deal with it now is they
12 didn't raise the discovery rule issue in their opening
13 brief. They just sort of raised the statute of limitations,
14 but they didn't actually discuss the issue of when we
15 discovered this until we got to reply.

16 And their complaint does not, in any case, say
17 when we discovered it. At best, there were inferences that
18 would be we didn't know about it until we -- right before we
19 sued, certainly within the two-year statute of limitations
20 window.

21 So I think the better course is either to find
22 that Minnesota law applies, which Your Honor can certainly
23 do, and then this is a moot point or, as Your Honor did in
24 your prior decision in *TL of Florida*, hold off on a statute
25 of limitations claim until ROSS can develop whatever

1 discovery it thinks it will be able to develop on a statute
2 of limitations affirmative defense.

3 THE COURT: Okay. Thank you. Plaintiffs' time
4 is up.

5 We'll turn it back to Mr. Ramsey for his
6 rebuttal. Go ahead, please.

7 MR. RAMSEY: Thank you, Your Honor. Just a few
8 final points here.

9 No less than three times, plaintiffs relied on
10 the *Micro Focus* case in terms of the pleadings standard for
11 copyright. One of the requirements there is to allege by
12 what acts the defendants infringed.

13 Back to my initial comments that there is simply
14 no allegation of any acts of copying by ROSS or LegalEase of
15 any of the protectable material.

16 Through plaintiffs' discussion just now, we
17 heard about key numbers, we heard about headnotes. Those
18 are defined terms. Now we're hearing about algorithms. I
19 believe I heard the word "database" involved. We heard now
20 for the first time a compilation.

21 This is the point. There is a lot of material
22 on the table even through the exposition of argument today
23 that there is simply no notice in any factual allegation,
24 direct or from which it can be inferred that any of this
25 material was actually copied into a ROSS product or by ROSS

1 in general or by LegalEase.

2 In other words, under the language of *Micro*
3 *Focus*, there is simply no alleged acts that constituted the
4 infringement. And there is just no notice to the defendant.

5 It's a very large body of material that is
6 alleged, broader still after today's argument. The point
7 is plaintiffs needed to specify, to the extent that they
8 can, and certainly more than they have, what it is that
9 is the acts by defendants where one may reasonably infer.
10 Based on some factual allegation, not just boilerplate
11 recitation of a copyright claim, where that material exists.

12 It is just a fishing expedition with this wide
13 open conclusory assumption that some material must be in
14 there somewhere. But that puts the discovery cart before
15 the pleading horse, and, you know, the complaint frames the
16 scope of the case.

17 So I think defendants could have done a better
18 job and should have done a better job at the pleading
19 standard to allege what acts are alleged to infringe by
20 defendant and what material could be reasonably referred to
21 have been copied, and that fails completely here.

22 As to -- you know, and again, plaintiffs cannot
23 take shelter under the information and belief. I refer the
24 court to the "network managing solutions vs. AT&T" case.
25 Only where there is not, and I quote, "some public product

1 that can be reverse engineered is information and belief
2 appropriate."

3 Plaintiffs could have done more, should have
4 done more to come up with a specific fact-based theory
5 directly or upon inference and simply have not done so.

6 Second. On indirect infringement, there is no
7 way. I'm going to take up than point real briefly.

8 In the opening brief, at page 7, the defendant
9 alleges that all of the indirect infringement allegations in
10 the complaint, that is paragraphs 24 through 29, 32 through
11 35, and 39 -- pardon, 38 through 39 fail because they're
12 alleged purely on information and belief. No factual content
13 underlying those allegations that there was knowledge, intent,
14 an act to induce or contribute to infringement. It's the same
15 feeling as the direct infringement claim.

16 And in general in the opening brief, for the
17 same reasons, the defendant alleges and sets forth argument
18 how there is no -- there is not a factual content to
19 establish that ROSS actually copied anything, certainly, the
20 defined material in the complaint, or that LegalEase did.
21 For those two reasons. Those are the modes in which
22 defendant took on the indirect infringement claim, filled it
23 out with some law, but no way was persuaded.

24 There was a question posed in Ms. Cendali's
25 argument, why would ROSS works with LegalEase if not to

1 infringe? That was a quote that I believe I heard or
2 something close to that.

3 This is about what you can infer from the
4 complaint. That is a fair question.

5 Unfortunately for the plaintiffs, in this case
6 the answer is the only facts in the complaint at all that
7 characterize or have any, any specificity to fill out ROSS's
8 product, what is in it, what may or may not have been copied
9 is the characterization that the product is a "natural
10 language search." So if we're asking the question why would
11 ROSS work with LegalEase if not to infringe, well, the
12 only thing we can infer from the complaint in that sole
13 characterization is that ROSS is working with LegalEase to
14 understand "the natural language of judicial opinions."

15 If we're talking about reasonable inferences,
16 that is all we have on this pleading. And for that reason,
17 there can be no reasonable inference of copying by ROSS or
18 LegalEase alike.

19 Finally, I got two minutes left here. I will
20 turn to tortious interference.

21 In sum, the only way the tortious interference
22 claim is framed in the complaint, and we heard about three
23 paragraphs today. I noted them. Paragraphs 1, 3, and 51.
24 Those are the materials that allegedly form the basis of the
25 tortious interference claim.

1 In every single one of those, it is simply a
2 boilerplate recitation of the elements of a tortious
3 interference claim. That there was a contract that ROSS
4 knew, that ROSS took some act to interfere with that
5 contract. Just stating a rule of law again.

6 But again, the pleading standard, as we know
7 under *Twombly* and *Iqbal* and the more particular cases
8 dealing with tortious interference requires something more
9 than that. It has to be -- a claim can't just be a
10 broad-based hunch and theory and speculation that, gosh,
11 ROSS might have been in some universe motivated to interfere
12 with the contract between LegalEase and West. There has to
13 be some factual material.

14 It may not prove the whole case. That is not
15 what I'm saying. We're not dealing with strawmen or women
16 today. It's just some factual material that is beyond just
17 a recitation of the tortious interference elements, and
18 unfortunately that is all the plaintiffs have alleged.

19 And for these reasons, plaintiff claims simply,
20 simply are not sufficient to meet the pleading standard in
21 this iteration of the complaint for sure.

22 THE COURT: All right. Let me ask you just a
23 few more questions.

24 We've all talked about Judge Andrews' *Micro*
25 *Focus* test. Do the defendants have a view on whether I can

1 or should follow his four-part recitation of what it takes
2 for a claim to survive a motion to dismiss?

3 MR. RAMSEY: I believe it is a fine formulation,
4 and defendant will accept that formulation.

5 And in particular, candidly, focusing on
6 defendant's best argument today, to make it clear and not
7 hide the proverbial ball, Item 4 is the copyright pleading
8 piece that is really important: By what acts the defendant
9 infringed the copyright. Here, there is nothing in this
10 complaint, and that is a requirement, and we're satisfied
11 adopting that test.

12 THE COURT: All right. With your respect to
13 your challenge to the indirect infringement allegations,
14 do you contend that in your opening brief you make some
15 argument about the sufficiency of the indirect claim
16 that you did not also make with respect to the direct
17 infringement claim?

18 MR. RAMSEY: Right. At page 7 of the opening
19 brief, the defendant asserts that all of the allegations
20 in the complaint, paragraphs 24 through 29, 32 through 35,
21 and 38 through 39 fail for failure -- for pleading them on
22 information and belief without a factual underpinning.

23 Those paragraphs are the bald assertion that
24 ROSS allegedly knew and intended and induced infringement.
25 And we stand on our argument. It is a species of the

1 more general genus of argument that pervades the entire
2 complaint. There is no factual underpinnings for any of the
3 elements of either copying by ROSS or copying by LegalEase
4 or knowledge, intent, or control for purposes of indirect
5 infringement or for tortious interference. Across the
6 board, that is the flaw, and it was argued in the opening
7 brief.

8 THE COURT: If I were to require them to file an
9 amended complaint, what is your position on whether they can
10 make use of whatever they seem to have learned in the action
11 against LegalEase? Are you okay with them doing so?

12 MR. RAMSEY: I think that -- well, I'm not
13 going to concede to that, no. I think that that is not
14 necessary.

15 The point is they, through that proceeding, they
16 had awareness of the product. They have known about it for
17 years. And it's available.

18 So I'm not willing to top the door to, you know,
19 free-ranging discovery, but I am open to inquiry into the
20 product that, you know, to be sure there is a link in the
21 briefs from which anybody can access the service, and
22 investigate it, test its inputs, its outputs, its features
23 and functionality, the way that it presents information, the
24 way it functions. And if there is some piece of that that
25 could support a claim, then so be it.

1 But it's incumbent to meet the pleadings
2 standard, in other words, to meet Factor 4 of Judge Andrews'
3 test, it's incumbent upon the plaintiffs to do that. And
4 they have just not done so now.

5 THE COURT: If the allegation as I think they
6 have made very clear at least now is that it was at the
7 development stage of your client's product that they're
8 alleging there was copying of their protected content that
9 is not public. It is not discernible through use of the
10 product.

11 So how else could they plead about that or, you
12 know, get information about it without information and
13 belief allegations followed by discovery?

14 MR. RAMSEY: I submit it is knowable, at least
15 inferentially from the reverse engineering. Just like in
16 the patent cases. I don't mean to keep referring to patent
17 cases, but in a technical case like this, it's no different.
18 It's true in every patent case, much like the copyright case
19 here, that the plaintiff can't know everything about a
20 product, but in the words of *Network Managing Solution*,
21 where there is "some public product that can be reverse
22 engineered" to shore up at least inferentially some more
23 specific features than, hey, this is a search product, it
24 must be in there somewhere. Well, the same is true here.
25 And we're only asking you to apply in an evenhanded way the

1 rules on pleading information and belief and the rules about
2 alleging specific acts.

3 There has to be -- we're not saying prove the
4 whole case. We're realistic. What we're saying, there must
5 be something to put the defendants on notice. This is not
6 just about meeting the pleading standard because it is
7 stated in a case someplace. It is about allowing the
8 defendant to say, ah, we now understand more specific ways
9 of parameters of the theory in the claim. We can formulate
10 a defense, admit or deny, and we'll frame the scope of
11 discovery.

12 So, more is possible without sitting in the lab
13 at ROSS through the investigation of the product just like
14 other IP cases, and something more is required here. They
15 can do more.

16 THE COURT: All right. Just one more question.
17 I'm not in any way offended by your reference to patent
18 cases. My question actually relates to that.

19 In patent cases, we usually have infringement
20 contentions at a fairly early stage in the discovery
21 process. Isn't that part of the answer here? They will
22 be required, if they survive this motion to dismiss, to, in
23 a fairly expeditious manner that we would build into the
24 schedule, serve something like infringement contentions on
25 you that make clear, here is what we contend is protectable

1 about, you know, our intellectual property, and here is what
2 we contend you copied.

3 What would be inadequate from your perspective
4 with that approach?

5 MR. RAMSEY: Well, broadly, there is nothing
6 offensive about such an approach and that sort of mechanism
7 is useful, of course, in any sort of litigation.

8 But my point is we're not quite there yet, Your
9 Honor. We're still at the pleadings stage. The pleadings
10 rules do require some level of specificity to open the doors
11 of discovery at all.

12 And plaintiffs have plenty of resources to avail
13 themselves to set the framing of this case beyond we have
14 databases and algorithms and headnotes and key numbers and
15 compilations and something in some way, somehow must be in
16 their product, but we're not, we're not going to frame it in
17 any sort of even, in any inferential way that is useful to
18 frame our case.

19 There is more work to be done in the complaint,
20 I would submit, Your Honor, before we get to the kind of
21 case management details like that. We're not at that point
22 yet, and the pleadings standards exist for a reason, I would
23 submit.

24 THE COURT: Okay. Thank you very much. I want
25 to thank all three of you for the very helpful argument.

1 I'm going to take the motion under advisement.
2 If I need anything further from you, I will let you know. I
3 hope everybody enjoys the weekend. Happy Halloween, I
4 suppose, and stay safe.

5 Thank you again. We will be in recess.

6 (The attorneys respond, "Thank you, Your Honor.")

7 (Telephonic argument ends at 12:48 p.m.)

8

9 I hereby certify the foregoing is a true and accurate
10 transcript from my stenographic notes in the proceeding.

11

12 /s/ Brian P. Gaffigan
13 Official Court Reporter
14 U.S. District Court
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